A Collection IV

[redacted]. F. IX-4

1939. (Legis)

File No. 4833

[redacted]us Referenees
3-31(1-2)
-33-1.

Serial Nos. 1.

[redacted]r References
37-39 (1[redacted]6+9)
& 11-41 84-283.
& Dep no 37/161-42
& Dep No 18-42 (1[redacted]5)

(332)

GENERAL AND REVENUE SECRETARIAT.

[redacted]l Nos. one only.

Part B for July 1939.

SUBJECT.

[redacted]mmulgation into Laws of the Mysore [redacted]ney Lenders' Bill.

tification No. P 206/Legis 4-39-1 of 12.7.39.

ordered to be published in the Mysore gazette
general in formation.

WD 0295—GPB—22,500—15-8-37

Chief Secretary
19/10/39.

1233/37 Money Lenders Bill

General and Revenue Secretariat. [App. F. III-

Legislative File No. 24 of 1937

1) The 1st member has ordered that this Bill be Legislative programme that this bill may be worked up.

2) The draft bill & Statement of objects & reasons are now ordered.

Sd
2/8/37

1311

GENERAL SECRETARY
12 AUG. 1937
1006

3) The 1st member was pleased to order that the opinion of the High Court may be invited about the advisability of the introduction of a Bill of this kind before further action was taken.

4) It appeared, necessary steps may be taken

Gen Secy & 1st member

) qud 1878. 1/8/37
12 8

1/8/37
18.8

5) 1878
19/8
qud
19/8
1/8/37
19.8

6)
Draft sent
Sd
20/8/37

7) issued 1/8/37
23.8

ISSUED NO P 1147 Dt. 25/8

NOTE—Contn. Sheet.

Sec 5
26.8.37

Money Lenders Bill

File No. 14 of 1937 | General and Revenue Secretariat

No 151/32-38 dt 24/11 from Registrar High Court forwarding the minutes of the Chief Justice & other Judges in the matter.

(6) All are agreed as to the desirability & necessity for the legislation.

(9) Hon. Justice Shanmukham Chetty & Hon. Justice Rao think it is of opinion that the maximum rate of interest fixed in S. 3 are far too high and suggest that they may be cut down to 12% & 18%.

(10) The Committee which considered this question fixed the maximum rate at 24%

In Bengal it is 15% & 25%; in Assam it is 12½ & 18¾.

The Agriculturists Relief Committee suggested 10% & 15%.

(11) All the Judges except Hon Justice Krishnaswamy Iyer are against the provision

Serial No.

made in clause 9 for deposit of money in court. This provision is contained in the Bengal & Assam Act.

11) Mr. Justice Chandrasekhara Rao suggests that it would be sufficient if it is specified that on tender of money, the running of interest shall cease. But it would perhaps be difficult to prove in many cases such tender & refusal

12) Objection is taken to the provision in clause 12 (2) that it may dispense the court from examining the original accounts & that there is no guarantee that the accounts are properly kept & a correct copy produced.

13) But opportunity is given in cl. 14 for the court

NOTE—Contn. Sheet.

WD 0284—GPB—30,000—13-3-37

to examine & decide the issue whether the Creditor has maintained the accounts properly

14) Further the copy to be produced under cl. 12(2) has to be certified in such manner as may be prescribed. So in framing the rules it may be prescribed that the accounts are properly got written up before the copy is certified

15) The provision is based on S. 3(23) The Madras Act.

16) Hon. Justice Abdul Khani thinks it is not desirable to have two definitions for the same term in two parts of this Regn. "Money lender" and "loan" are defined both in Part I and

Serial No.

Part III, last the opportunity. Parts I & II apply to each loan transaction. But parts III & IV apply to professional money lenders.

17) The Bengal & Assam Relief Act is a general character But in addition it applies only to creditors who in the regular course of business advance loans.

18) It is a point for consideration whether the legislature should concern itself with only professional money lenders or with other loan transactions as well.

19) If the Bill is to remain as it is it is perhaps desirable to bring the definitions of "money lender" & "loan" given in Part III under Part I itself since

NOTE—Contn. Sheet.

WD 0284—GPB—30,000—13-8-37

it covers the whole Region.

He is also of opinion that it is not necessary to Define "Banks" "Companies" "Co-operative Credit Society" as they do not appear to play any part in the working of the Region.

7:) These Defns. are taken from the model Act. Money lenders is the wide enough as loans and loans is advance of money or in kind at interest. So the advances made by banks etc will also be included But the idea is to remove the loans made by such institutions from the purview of the Region. and these terms have to be defined.

Money Lenders Bill

Serial No.

21) The object of section 15 of the Ordinance that section 6 & exception to be 15-0 subsequent in the case of an honest lender who is not lending as a business.

22) S. 6 requires the money lenders to furnish particulars on demand. If the facts disclosed misleading to him & he will also be punishable.

Even a person who lends occasionally must be able to furnish particulars about the loans transaction.

23) Subd. for endorsement with the Bengal, Assam, Punjab & Madras Acts.

24) The opinion of the Judges of the High Court regarding the introduction of the Money Lenders Bill is submitted

See 29/11/37

Note—Contn. Sheet.

WD 0284—GPB—30,000—13-8-37

8

Money Lenders' Bill

Legislative File No. 14 of 1937. | General and Revenue Secretariat

for information. The Judges are agreed that there is need for a Bill of this kind.

25) The amendments proposed by them will be considered and necessary changes made in the Bill

(1st member)

by

26) They have also pointed out that the drafting requires close scrutiny. This may be done when the several amendments proposed may be examined + noted upon.

27) I would like this to be brought up before the next assembly Session.

JPR
3/1/38
and
4/1/38

by

28) In regard to the Rule of interpretation has been taken to the disposition of certain terms as moneys lender, loan etc differently in para 1 & R III. This may be avoided if the Hire Act is applied

OFFICE OF THE FIRST MINISTER
JAN 4 1938
No. 4122

Serial No.

only to professional moneylenders, power being taken to apply certain provisions such as regulation of accounts, maximum rate of interest etc to creditors other than professional moneylenders.

29) The Deputy Registrar of Joint Stock Company & Co-operative Society are considered unnecessary. They may be omitted since power is taken to exclude certain classes of moneylenders from the operation of the Act.

30) Objection is taken to the provision in S. 9 re deposit in Court. This may perhaps be omitted

31) S. 3 provides for cases where interest may be considered excessive under the

NOTE—Contn. Sheet.

WD 0284—GPB—30,000—13-9-37

10

File No. of 193 . General and Revenue Secretariat

Insurance Loans Act. Instead of referring to that Act the maximum rate of interest which may be allowed by Court may be provided for under this Act.

32) The rate of interest charged are considered excessive in Bombay & Bihar the proposed rates are 9 & 12 % & in Madras it is 9 or 15. One rate is to be adopted are for orders.

33) The provision in S. 12(2) re admissibility as evidence of certified extract of accounts is objected to as it will remove the scope for proper scrutiny of the accounts. The provision may perhaps be omitted.

34) The suggestion to combine clauses (c) & (h)

Serial No.

of S. 14(3) may be adopted
35) S. 18 seems unnecessary
as the objects of the section
may be achieved by the
provisions re maintenance
of accounts.
36) The arrangement
of the sections seems
to require change.
The provisions may
be arranged under
the following heads in
the order mentioned :—
I Preliminary II Registration
& Licensing of money lenders
III. Regulation of accounts
IV Provisions relating to suits
V Penalties and VI miscellaneous
37) A draft Bill revised
on the above lines is
sent. A comparative
statement is also put
up showing the corresponding provisions in
the Act on Bills of some
of the provinces in India.
38) Sent. for orders.

Please refer
pages 5
N 1/12

The file re amendment of Co-operative Act in regard to Panam Workers is linked to this and should be

NOTE—Contn. Sheet.

WD 0284—GPB—30,000—13-9-37

Sd
5/12/38.

Serial No.

37. The Judges of the High Court have made certain suggestions for amending the Money-Lenders'-Bill.

1. The maximum rate of interest for secured loans to the extent of 18 % and in the case of unsecured loans 24 % is considered too high. We may with advantage reduce it to 9 % and 12 % respectively.

2. Three of the Judges considered that it is unnecessary to provide for payment into Court of any money which on being duly sent by money order by the debtor is refused by the money lender and it appears to be sufficient to specify that on such tender, the running of interest on such amount shall cease. This provision, they considered, will entail unnecessary hardship on the debtor who has to move from his village to the court having jurisdiction at some personal inconvenience and expense. This provision appears to be impracticable and not quite desirable and may be omitted. Section 9 and 9(2) will therefore be omitte

3. The provision made under Section 12(2) and 14(2)(a) for taking a compared extract of accounts as evidence of th transactions prosecution is said to be dangerous ~~and that~~ in most cases no examination of the original accounts appears t be necessary. In this view it is very desirable that the bill should be amended accordingly. In order to safeguard the interests of the debtor it is quite

NOTE—Contn. Sheet.

WD 0284—GPB—30,000—13-5-37

necessary that the original accounts books themselves should be produced in court. Section 18 which says that a memorandum in writing containing particulars of the contract between the debtor and the creditor should always be made at the time of the loan, is said to be unnecessary. ~~and~~ The may be omitted.

3. The Judges state that the different definitions of "Money-lender" and "Loan" in different parts of the Act are unnecessary and that they may be suitably amended. This has been done by the revised definition of the "Money-lender" and the "Loan".

4. They consider it unnecessary to define 'Banks', Companies', 'Cooperative Societies, etc., as these terms have not been used in the body of the Act; ~~and~~ As the definition of the 'Money-lender' is sufficiently comprehensive these definitions should be omitted.

5) The draft has been carefully scrutinised and the sections clauses have been rearranged. ~~In~~ In the light of the views expressed by the High Court and in the light of the Acts now in force in Bengal, Madras, Behar and Bombay. ~~the~~ A comparative statement of the important provisions in the several provincial Acts as well as the provisions of our proposed Bill is kept ~~on~~ in the file. A revised Bill has accordingly been submitted for consideration with the statement

H T.

K)

Serial No.

statement of objects and reasons. The ~~definition~~ division of the Bill in ~~the~~ into four parts has been taken away and the Bill has been divided now into six chapters. The Bill, as revised, is simple and applies to all cases of money-lending. Provision is made by Government to extend the provision of this Bill either to a particular class of money-lenders or to all classes of money-lenders. The Statement of [illegible] has been approved by the Hon'ble Member (Mr. G. Gen Secy)

GENERAL SECRETARY. 31 MAR 1938 5694 5-863

Gen Secy as above

Hon'ble Member (Mr. G. Gen Secy)

Hon'ble Member (Mr. G. Gen Secy)

I. member)

7156 11/4

As this is an important & complicated measure, the draft bill may be scrutinised carefully by the Govt advocate also if he has not already seen it

Govt 21/4 Gen 21/4

NOTE—Contn. Sheet.

WD 0284—GPB—30,000—13-9-37

3680 — V45.

Money Lenders Bill

File No. of 193 . | General and Revenue Secretariat

U.O. No 122/37-38 dt 27-4-38

43) Forwarded with compliments to the Government Advocate for favour of scrutiny of the Bill

for 8/11/37-38 dt 27.4.38

Sd/- ... for General Secretary

Returned with compliments.

U.O. No. 80.8/38-39 dt 30.4.38

44) I have studied all the cognate measures either in the shape of Acts or Bills as emerged from the Select Committee or those at initial stages in the various provinces in British India. I have of course studied the parent English Act.

45) My suggestions are of two fold character; one is regarding amendments in the wording of the Bill as it is drafted, and the other is additions to it wholly new.

I Under the former category come the following:-

(a) I think the words "in the opinion of the Court is" may be added between the words "which" and "in" in Section 2(3) and the word "is" after the word - "substance" may be omitted.

(b) In Section 12(2) the words "duly certified by the pawn-broker" may I think, be added ~~between the words~~ after the word "Account" ~~"copy" and "of"~~. If ~~that~~ This should be done

done then the words "the pawn-broker" between the words "by" and "~~two~~" may be substituted by the word "him".

(c) In Section 22, for the words "~~other than~~ those advancing loans in the regular course of business" the word "money-lender" may be substituted.

(d) In para 1 of the Statement of Objects and Reasons the word "and" between the words "this" and "without" may either be substituted by the word "but" or altogether - omitted.

II Under the 2nd category mentioned above, come the following:-

(a) The definition of money-lender should be made comprehensive enough to include legal representatives and assigns, as otherwise, by the accident of the death of ~~the~~ a money-lender or by a voluntary act of assignment on his part, the debtor may be deprived of the benefit of protection given by the Act; in other words an easy way of evasion of the stringent provisions of the measure will be rendered possible. If this suggestion of amplifying the definition of money lender should be acceptable, then certain consequential amendments as for example, protecting a bona fide assignee by providing for his indemnity or making it obligatory upon the assignor to furnish the necessary details of the transaction to the assignee, will have to be made on the lines of either the

English Act or the Bombay Bill of 1938.

(b) There is no provision in the Act compelling a foreign money lender who may operate from outside the State to have a place of business in the State. Section 5 of the Bill compels him to "apply in writing to the Registrar for the area in which the principal place of business of such money lender is situated". This section can be worked in respect of persons who have a place of business in the State. But it cannot be worked in respect of those outsiders who may not care to have any place of business anywhere ~~in India~~ in the State at all. They may find it difficult to find out the particular Registrar to whom they can apply for registration.

(c) It is very common for these money lenders ~~...~~ to satisfy their greed or to provide against possible reduction of their claim - either by court or by a clamour for revision by the debtor or to provide against the - contingency of the supervening impoverishment of the debtor ~~by~~ to inflat~~ing~~e the figure of the loan at the very first instance. I think a sanction must be provided for in the Act - against making an artifice of the kind.

(d) Canvassing for customers should be prohibited. Even in the learned professions like Law or Medicine, it is done ~~prohibited~~. I do not See ~~pay~~ any reason why any advertisement shoul not be tabooed so as to make it a little more

difficul

difficult for the poor debtors to find out the places where they can be - victimised.

(e) There are provisions for cancelling or suspending the license and also for - refusing to renew the license. But, I believe there is no provision for refusing to grant the license in the very first instance. Suppose there is a man of bad repute who, it is desirable - should not be given the chance of even a first free bite, there is nothing in the Act empowering the Registrar to - refuse to license him. I do not ~~say~~ See any reasons why he should not be invested with such a power. If this suggestion will should be acceptable, then it follows that the discretion to refuse the license ~~must~~ be circumscribed by certain conditions to provide against a possible abuse of the discretion or its arbitrary exercise. Very likely a further safeguard by way of appeal will also have to ~~be~~ be provided for.

(f) Molestation of the debtor, especially by a certain class of money lenders, is very common. I believe the kind - attention of the Dewan was invited to it some years ago when the molestation went on even near the Public Offices. It is very

781/P/38

very common in the City, and it becomes rather dangerous in the not very thickly populated extensions or in distant hamlets. I think molestation may be made an offence. If this suggestion should find favour of acceptance, then I venture to suggest that the proviso which is attached to the section either in the Bombay Bill of 1938 or in the Central Provinces Protection of Debtors' Act may be omitted. In my opinion that proviso which allowes the creditor to go to the house of the debtor for the ostensible purpose of getting information or making demand almost nullifies the object of the section for he can always put up the defence of a bona fide purpose of either a demand or quest for information. There will be no hardship, I believe, by the deletion of the proviso because an equally effective demand can be made through post, or information can be gathered otherwise than by being bodily present near the debtor's house.

Government Advocate.

CSN/29.7.38

GENERAL SECRETARIAT
30 JULY 1938

Money Lenders Bill 54 22

Serial No.

46) The suggestions made by the Govt. Advocate are for orders.

47) The verbal changes suggested in paras (a) to (d) under the first category may perhaps be adopted.

II (a) Re the application of the Act to assignees & Clauses 32 & 33 of the Bombay* Bill may perhaps be adopted. viz. the definitions of "money lenders may be expanded so as to include ... legal representatives & successors in interest whether by inheritance or assignment.

(b) ~~Rest~~ A foreign money lender may be asked to apply to the Registrar for the area in which he intends to carry on

NOTE—Contn. Sheet.

the business after the word "litigation" in cl. 5 the words "or in which he undertakes to carry on the business of money lending" may be added to give effect to this suggestion.

(c) & (d) ~~Do not suggest any~~

In order to prevent the writing of a larger amount in the bond that what is actually lent and to prevent molestation clauses 37 and 38 of the Bombay bill may be adopted. But it may become difficult to prove these offences & work them effectively in practice.

Whether any provision need be made against advertisement is a point for consideration.

781 938 26 21

Serial No.

Such a provision is, however, found in S. 11. of the Assam Money Lenders Act.

(e) Re provision for refusing licence in the first instance the Bill does not provide for it: But under clause 18 provision is made for the Court to disqualify a money lender permanently from obtaining a licence if it is of opinion that the money lender is unfit to carry on business. The Regr. will not be in a position to decide about about the undesirability of the money lender: as the Court will be after inquiry.

Subd. for orders.

See 9/8/35

46) The verbal alterations proposed by the Govt Advocate may be adopted. The word true may be substituted for the word "certified" in Sec. 12 (2). This will convey the meaning better than the word certified by the G.A.

47) Regarding amendments in the proposed bill suggested by the G.A. the following may be adopted.

1) The definition of money lender to include assignees & legal Reps of money lenders

2.) To compel a non foreign money lender to have his place of business in Jaffna

3)
48) The other suggestions made do not seem to be necessary & practicable.

a). protection of bona fide assignees

It is the business of the assignee himself to take necessary precautions before assignment

b) It is suggested that necessary protection should be given to the debtor against encumbrances a higher figure in the bond document than the amount actually taken

It is impossible to adduce any circumstantial evidence in Cases of this kind. This can only be

Serial No.

...circumstances from the circumstances attending the entire transaction. No special clauses are necessary

c) Provision has been made for Courts to cancel license and given by the Registrar no provision has been made to refuse license to by the Registrar. As every citizen carrying money lender must have an opportunity of carrying on the profession & without any reason the Registrar should not refuse license. This would be a dangerous weapon in the hands of the Registrar if he has to refuse a license he must have certain materials before him. This means he will have to hold an enquiry for this may increase his work considerably

The Registrar has power of refusing the license when a renewal is applied at the end of one year. This is sufficient

d) The ordinary law is sufficient to prevent molestation. For the Bombay Act referred to by the G. A is found in the Bombay Prevention Act. We are controlling money lending & this clause seems to be out of place. Molestation has not arisen any serious proportion here

NOTE—Contn. Sheet.

25

Money Lenders Bill

Leg.

File No. of 193

General and Revenue Secretariat

Serial No.

57) The bill may be suitably amended after orders are passed as the above points

(1st member 1st) Gen Secy

Sd/ by 19/8/38 12-8

GENERAL SECRETARIAT 12 AUG. 1938 824

58) Please bring this up on Monday 22nd for the P A Committee meeting

Sd/ PR 20/8 198

59) The bill was discussed in the P. A committee the general sense of the committee was that the bill may be introduced in the ensuing sessn A A & C & that the details may be discussed in the S.C

(1st member)

OFFICE OF THE FIRST MEMBER OF COUNCIL AUG 24 1938

by 24-8

54) I have gone through the bill & also placed before the P A Committee who approved of its main lines. Further action may be taken to place it before Assembly at the next session

Sd/ 29/8 by 29

Money-lenders Bill 78 26

DEWAN'S OFFICE 30 AUG. 1938 No. 1530.

A certified copy of the Bill and Statement of objects & reasons may be placed in the file

MS 29/8

Typing Section

Typed copy of Bill & Statement of objects & reasons sent.

Serial No.

55) This is a Council matter. May perhaps be disposed of by circulation.

Chief Secy)
Dewan)

MS 29.8.38

30-8-38

56) MS

57) CB circulate.

MS 31/8

58) As seems suited

MS 8/9/38.

TYPING SECTION 3 SEP 1938 GENL & REV SECTT.

Table mentioned in Gen principles is also putup

3.9

59) Signed. Please arrange the papers in the file properly. Use not useless papers.

MS

2797 9/9

60) Signed

MS 9/9

CHIEF SECRETARY 1938 GOVT. OF MYSORE.

61) S. N. put up.

10.9

MS 13/9

DEWAN)

10.9

NOTE—Contn. Sheet.

For Disposal by Circulation. No. C. 95

9 1938.

GENERAL AND REVENUE SECRETARIAT.

Council Matter.

Subject

The Bill to regulate and control the transactions of money lending in the State.

6/9 *Circulated to the Members of Council.*

By Order,

Chief Secretary to Government.

3rd September 1938.

3/9/38 5/9 **First Member of Council.** 6/9 5/9

6/5 5.9.38 **Second Member of Council.** 6/9 5/9/38

2657 6/9 For favour of Final Note.

6/9 - First Member.

5.9.38

6/9

Final Note by the First Member of Council.

Subject.—

Introduction of money lenders bill.

66) The question of introducing legislation for the control of money lending transactions has been under consideration for sometime past. The necessity for legislation on this matter was also urged in the Representative Assembly and the Legislative Council often. To decide as to the provisions to be included if legislation was undertaken, Government consulted informally a Committee of non-official gentlemen whose recommendations have been considered and provided for wherever suitable. The Royal Commission on Agriculture, the Royal Commission on Labour and Banking Enquiry Committee have all recommended legislation for controlling money lending business on certain lines. Certain of the British Indian Provinces have already taken or are taking action in this line. The Political Affairs Committee are also of opinion that some legislation is necessary to control money lending in the State.

67) The existing provisions of the Agriculturists Relief Act and the Usurious Loans Act gives some little relief to debtors. But it is desirable that provision should be made for certain defects in the existing system which adversely affect debtors in general. Chief among these are that the money lenders ordinarily do not keep regular accounts and sometimes they do not give receipts for money paid by the debtors. The interest charged is also high.

68) It is therefore proposed to introduce a Bill to control money lending business in the State in the interest of the debtors most of whom are illiterate and ignorant.

The main provisions of the Bill are:-

(1) The fixing of the maximum rate of interest in cases coming before Courts.

(2) Keeping of regular accounts.

(3) Registration and licensing of money lenders.

69) At the same time care is taken to see that the Bill does ot unnecessarily harass money lenders and restrict facilities for redit.

70) This proposal has been agreed to by the Dewan and the econd Member. I solicit the gracious sanction of His Highness o place the general principles of the Bill before the ensuing epresentative Assembly and to introduce the Bill in the Legislative ouncil in due course.

T Rajagopal

MEMBER OF COUNCIL.

Bangalore,
10th September 1938.

Submitted to His Highness.

71) *I submit herewith a Final Note by the* First *Member of Council on the subject of* introduction of a Bill to control money-lending business in the State, for His Highness' gracious approval.

Mirza M. Ismail

Bangalore,
13th September 1938.)

Dewan.

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Introduction of a Bill to control money-lending business in the State.

Ch Sec'y

SM
16/9/38

No. 182

Order.

72) ~~KRW~~
14/9/38

DMS
16.9.38

General and Revenue Secretariat.

78/P/38 C95 32

SUBJECT:—

Introduction of a Bill to control money-lending business in the State.

(*)

31 All urgent or confidential files returned with His Highness' orders may in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at Headquarters and then sent to the Secretariat concerned for the issue of orders.

73) Circulated to Members of Council for perusal of His Highness' orders before/~~after~~ issue of orders. (*Vide* Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

Chief Secretary to Government.

Through the Secretary to Government,

.....Department.

FIRST MEMBER OF COUNCIL. (Seen)

74

2038
11.9.38

SECOND MEMBER OF COUNCIL.

16/9/38

Under Secy (Retd)

16.9.38

19.9.

NOTE.—Contn. sheet.

WD 1167—GPB—500—23-2-38

.79
Money lenders Bill. 33

General and Revenue Secretariat | File No. | of 193 | [App. F. III—2

Serial No.

75) Secd. with the proceedings of the R.A on this subn.

76) The general principles of the Bill were accepted by that Assn.

77) The Bill in its present form is for orders. Clause 1(2) provides for extension of particular clauses to any local area or to any class of money lender under this Act & licensing may be extended only to a particular class of money lenders.

The S.T. of G.6. principles may, if approved be adopted as the S.T. of objects & reasons Secd. for orders.

Vide enclosure with pages 4 & 23

Vide enclosure 1 to note, page 2

Z.L.M.

15/11/38.

Secd, with the copy of the Bill typed as revised & S.T. of Objects & Reasons.

6/12/38

NOTE—Contn. Sheet.

WD 0544—GPB—30,000—2-9-83

3L, money lenders Bill 787 D887

File No. of 193 . General and Revenue Secretariat

79) The bill has been slightly revised in the light of the discussions in the N.A and certain verbal changes are made.

80 The definitions of money lending and secured loan are included to make the bill clearer 413,

81 Sec. 16 has been added to show the provisions of the Usurious Loans Act may not be affected.

The statement of General principles has been omitted in the statement of objects & reasons.

82) If approved this will be published under Rule 8 of the Rules & Resolutions &c.

(As amended & revised)

hg 7.12

83) JPR 8/12 S'262 8/12

84) MS 8-12-38 MS 9/12

hg 9.12

85)

2. re offices with copies of bill & set of objects & reasons.

See 10/12/38

86) Three copies of the Bill taken & file noted

Prot.n B.n

10/12/38 B 10.12

OFFICE OF THE SECRETARY
10 DEC. 1938
REPRESENTATIVE ASSEMBLY AND LEGISLATIVE COUNCIL.

D.1026/2.c

79)

money lenders Bill.

General and Revenue Secretariat | File No. | of 193 | [App. F. III—2

OFFICE OF THE EXECUTIVE COUNCIL
JAN 5 1939
5327

Serial No.

87) The Bill has been published. Govt. for orders if the following motions may be included in the agenda for this remaining session of the L. C.:-

(a) Motion that the Bill be ~~considered~~ read in Council.

Mover: First member
Seconder:- Govt. Secy.

(b) Motion that the Bill be referred to a Select Committee

Mover: First member
Seconder:- Govt. Secy

5/1/39 (Mr. Menda)

5/1/39

88) 5/1/39

61

88) L.C office for note & return

5/1/39

88) Noted & returned
10-1-39. Govt. Secy
11.1.39

OFFICE OF THE SECRETARY
6 JAN
REPRESENTATIVE ASSEMBLY AND EXECUTIVE COUNCIL.

NOTE—Contn. Sheet.

WD 0544—GPB—30,000—2-9-83

Moneylenders Bill.

File No. of 193

General and Revenu Secretariat

11) The Bill was introduced in the L.C. at its recent session and was referred to a Select Committee consisting of the following members:—

1. First Member (Chairman)
2. Mr. Abdul Wajid
3. Rajaseva prasakta B.T. Kesavaiengar
4. Mr. Mirle N. Lakshminarayanappa
5. Mr. M. Abdul Hakh
6. Mr. M.S. Ramachandra Rao
7. Rajasabhabhushana Diwan Bahadur K.R. Srinivasa Iyengar
8. Khan Bahadur Mahomed Abbas Khan.
9. Mr. Henry H. White
10. Mr. B.S. Puttaswamy
11. Mr. B.R. Puttananjappa
12. Mr. R. Channigaramiah
13. Mr. P. Subbarama Chetty
14. Mr. G. Girmaji Rao
15. Mr. Belur Srinivasa Iyengar
16. Mr. T. Ramachandra.

Vide page 1 N46

91) Memoranda of objections and suggestions to the Bill have been received from the following Associations and persons:-

1. The Sindh Sikarpur Bankers Association.
2. The Moneylenders of Bangalore and separate but identical Memoranda from the Moneylenders of the other Districts.

Vide 2 enclosures attached recorded as enclosure 1. in this file under the heading memorandums.

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3. Multani Moneylenders of Bangalore & Mysore.

4. Moneylenders of K.G.F.

5. Residents and employees of K.G.F.

6. Pathan Moneylenders.

7. Mr. M.N.Chandur.

92) A tabular statement of the several objections and suggestions has been put up. (Flag I).

93) Though these memoranda start by stating that the fundamental principles are not objectionable, the tabular statement will indicate that objection has been taken to almost all the important provisions of the Bill

94) Moneylenders have been subject to legislative control from time immemorial. Such legislation has proceeded on the theory that a usurious loan is attributable to such an inequality in the relation of the lender and borrower that the borrower's necessities deprive him of freedom in contracting and place him at the mercy of the lender. In theory, the borrower is put by such laws, in the same category with persons under legal disability to contract. (Corpus Juris Vol. 66 page 161.)

95) The parent Act for this Bill and corresponding British Indian Acts is the English Act of 1900

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which has since been amended by the 1927 Act. The English Act in turn is modelled on the English Pawnbrokers Act of 1872.

CHAPTER II REGISTRATION AND LICENSING.

CHAPTER II

96) In 1897 a Select Committee of the House of Commons was appointed to consider the evils attending money-lending. Several witnesses, some of them persons of eminence, suggested that moneylenders should be registered and the Committee accepted this suggestion. It was also proposed that moneylenders should be required to take out licences in addition to being registered. But the Committee did not recommend its adoption. (Bellot- Bargains with Moneylenders 2nd. Edn. p.79-81.)

Registration alone was thereupon provided for by the 1900 Act. In 1927, the amending Act repealed these provisions of Registration and substituted licensing of moneylenders. The reason for this change has been suggested by Sir Malcolm Macnaghten during the discussions in the House of Commons on the 1927 Bill to be as follows:-

"Under the Act of 1900 persons whose character is such that they really ought not to be allowed to carry on the business of moneylending can go and get themselves registered. All that this Bill proposes to do is that which is done with regard to innkeepers, with regard to people who want to carry on nursing homes, and a number of other things, namely that they should go before some

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tribunal and give reasonable evidence that they are fit and proper persons to be on the register of Moneylenders." (Parliamentary Debates Vol203 p.778.) He added that solicitors were also subject to a similar check.

97) In America, the Uniform Small Loan Law provides for the licensing of a moneylender at a cost of £20/ In addition he has to file a bond for £200/. If necessary, he will have to file another bond for another £200/. If he is convicted twice, he can no longer practice moneylending. This law has been in force since 1916 in some 4 States and covers about 20 States and half the population of the United States and has been found to be working satisfactorily.

98) The Central Banking Enquiry Committee state that proposals for Registration and licensing were received from the Provincial Committeess and add: "The main objectives to the proposal to introduce a system of licensing of moneylenders are two: to reduce the nigh rates of interest charged by them and to control, and to remove the dishonest practices among certain members of their class." After considering the arguments for and against this proposal, they state that they are not in favour of such remedies, but suggest others.

NOTE—Contn. Sheet.

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99) The Punjab Moneylenders Bill is the only measure, either existing or proposed, which provides for both registration and licensing. The C.P. and the Bihar Act both provide for Registration only. The Bombay Bill provides for licensing, though a Registrar is contemplated who issues the licence and maintains a Register of licencees.

100) If any such check is considered necessary either for the reasons contained in the Report of the Banking Enquiry Committee or more generally as a possible check on them, it is for orders whether one of the two methods will not serve this purpose.

101) Objection to these provisions has been taken by the Memorialists on the ground that they are derogatory to self respect. The analogy of the innkeepers solicitors etc., already noticed and in addition of pleaders medical men and others ought to dispel any such undue sensitiveness. Our Bill in not insisting on an enquiry or a certificate of character before th issue of a licence is less drastic than the English a Act or the Bomaby Bill which insist on them.

DUTY TO KEEP ACCOUNTS. CLAUSE 9

102) Regulation of accounts is the back bone of the whole Bill and the main object of every Moneylenders Act has been to secure as between a lender and borrower an improved system of keeping accounts which

Serial No.

will give to the latter a means of ascertaining periodically how their accounts stand and how they are composed. No honest moneylender ought to have any objection to maintain accounts in any manner the Government may prescribe.

107) The objection of the memorialists is to any compulsion as to the language in which accounts are to be kept.

104) In Madras the Select Committee which considered the Debtors Protection Bill state that the bulk of evidence recorded by it was against the enactment of any such provision. The Rules framed under the Act however prescribes that the statement of account to be furnished to the debtor as well as receipts for payment of money should be either in English or in the chief vernacular language of the District. The C.P.Act prescribes certain languages only for such statements and receipts. The Punjab Act of 1930 prescribes the languages in which accounts also should be maintained. The Bombay Bill seems to imply that accounts also should be in particular languages. (Clause 23.)

105) One strong reason in favour of insisting on the language in which accounts have to be kept is that these measures are designed for the protection of the borrower and it is logical to insist ona language which the

Vide S.19(1) [illegible] in [illegible] Relief Act

[illegible] is not new [illegible] language [illegible] Money Lender [illegible] Act [illegible]

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borrower may be deemed to understand. The foreign money-lender plea of ignorance of local language ought to have the same weight as a plea of ignorance of local law or custom. If he wants to benefit by transactions in the State with subjects who may be expected to know only local languages, he must either learn them or engage honest clerks.

RECEIPT TO BE GIVEN. CLAUSE 10.

106) Objection is taken to this salutory provision on the ground that the unscrupulous borrower will get a handle with which to harass the creditor by denying the grant of a receipt. Taking the signature of the borrower or his agent on the counterfoil or preserving the postal acknowledgment are obvious safeguards.

5 of Agri Relief Act has a useful provision

107) It is suggested that it may be left to Courts to draw legitimate inferences. If so, the Bill instead of benefitting the borrower will affect him adversely, as he will be bound by statements for which the creditor alone is responsible. The Madras, C.P. Punjab and Bihar Acts and the Bombay Bill have all got similar provisions. CLAUSE 11(2)

INSPECTION BY REGISTRAR. CLAUSE 13.

108) It is said that accounts will come up before court in the usual course and this provision will not benefit anybody. It is also said to be an inroad on the confidential nature of the transactions. No similar provisions are found anywhere else. The only reference

Vide Panam Act. 9 of 1947

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available is to a suggestion for such a provision made during discussions by a member of the Bombay Assembly/on the Bomaby Bill (Proceedings of the Bombay Assembly Vol page 803.)

CHAPTER IV.

105) All the moneylenders associations that have sent up memorials object to the rates of interest as too low. The maximum which they have suggested is however only 12% and 18%. They suggest that this may be left to the discretion of the courts. One suggestion is that the rates ax vary with that of the Reserve Bank and the Government of India and that therefore Government should take power to vary the rates without recourse to the Legislature every time.

110) The Select Committee of the House of Commons of 1897 reported against any provisions fixing maximum rates on various grounds. They said, "..a high rate of interest is not in itself incompatible with fair dealing. and no limit of interest can be fixed which would be adapted to meet the widely different conditions under which loans are contracted, and further that if a maximum were fixed by statute, the interest would tend in all cases to rise to that maximum. Moreover.. the gretest possible ingenuity would probably be exercised in circumventing any rules and they cannot but consider that any hard and fast rule of this nature would be evaded."

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111) In the Madras Council, during the discussions on the Debtors Protection Bill, the law member Sir M.Krishnan Nair has quoted the opinion of the Government-of India on this point. "All previous considerations and the general arguments point to the conclusion that the fixation of maximum rates of interest does not constitute a satisfactory remedy for the mischief. (Madras Council Debates Vol LXIII page 106.) The Central Banking Enquiry Committee also are against fixing any maximum rates of interest. "We are unable to agree with the suggestion to amend the Act (the Usurious Loans Act) so as to fix a definite statutory limit to the rate of interest. This will be neither practicable nor effective. If such a limit is considered necessary we think that the provision should be made in a different way namely, that interest up to 12% per annum shall not be considered excessive within the meaning of section 3 of the Act (Usurious Loans Act) "

112) The Madras and Bengal Acts dox not have any maximum corresponding to our clauses 14 and 15.

113) Clauses 14 and 15 appear to be inconsistent with clause 16. The effect of clause 16 is that where excess interest is claimed, the court presumes that the transaction is unfair and the interest excessive. The result is that a burden is cast on the creditor to prove that the transaction is not unfair. But the effect of clause 14 is that even in those cases, the court should not allow interest over the maximum. Perhaps, if

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Clause 16 alone is retained and the rates of interest fixed in that clause beyond which the presumption should be drawn, any fluctuation in the rates of the Reserve Bank or the Government of India would be evidence for the creditor to rebut the presumption of unfairness. The Madras Agriculturists Relief Act has however got a provision similar to our clause 14 and power is also taken under that provision to vary the rates from time to time.

CLAUSE 18

PENALTY FOR NOT KEEPING ACCOUNTS.

114) This penalty is left to the discretion of the courts to inflict or not. Considerable discussion took place in the Madras Council on a similar clause in the Debtors Protection Bill. The Law Member Sir K.V. Reddi stated, " If the word 'SHALL' is not there, the word 'MAY' will have no effect at all, because as the la stands at present costs are always at the discretion of the court. Therefore the whole provision in the clause itself might disappear. But the whole scheme and the purpose of the law is to compel the creditors to keep accounts as a safeguard against any fraud being committed on the poor debtors. Consequently there must be some provision like that here. " (Madras Council Debates Vol LXXII page 79.) The Madras Act has the word "SHALL" which leaves no discretion to the courts

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to allow interest or costs where there has been non-compliance with the provisions of clause 9 or 12.

115) The C and the Punjab Acts also have the word "SHALL" The Bihar Act goes still further and make the non-compliance punishable with imprisonment or fine.

116) An earlier draft of our Bill had the word "SHALL". Justice Shankaranarayana Rao when the Bill was sent to the High Court for opinion suggested that the discretion may be left to the Courts and that the word to be used might be "MAY". However in view of the ~~xix~~ opinion of the Madras Law Member and the fact that the duty to keep accounts is the heart of the whole scheme of moneylenders Acts and its importance is likely to be realised and its provisions carried out only if the penalty is made compulsory, it is for orders whether the word "SHALL" might not be more properly used.

CHAPTER V. PENALTIES.

CHAPTER V.

117) Apart from the objection to the severity of the sentences, two other objections ~~xh~~ have been raised.

118) The first is that no provision is made for an appeal against an order of court cancelling or suspending a licence. It is true that there is no provision for an appeal in ~~such~~ a case. It is also

doubtful if an appeal will lie unless so given.

The court which tries the case will be a civil court and if interest or costs are disallowed as penalty, an appeal will lie as if from a decreem under the Civil Procedure Code. But where the order is cancellation or suspension of a licence, there will be no right of appeal unless specifically given since the order will not be in the nature of a decree.

119) The Assam Act gives a right of appeal, but it treats the order as a conviction. The Bombay Bill has provided for an appeal in such cases. ~~THE~~ The C.P. and the Bihar Acts do not have any such provisions for an appeal. It is a point for orders whether a right of appeal has to be given and if so whether it is not necessary to give it in the Bill itself.

120) The second objection is that the law is not clearly laid down as to the effect of a cancellation or suspension. There does not appear to be much force in this objection. As the Bill stands, the effect of such an order would be that the money lender cannot during the period of such suspension or cancellation carry on the business of moneylending. If he does so he will be liable under clause 20. He can recover ~~under~~ on previous transactions.

121) The Central Banking Enquiry Committee

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have drawn attention to certain provisions in the English Moneylenders Act of 1927 and suggest its acceptance by the provincial and other Governments in India who contemplate legislation. They are:-

1. No amount shall be charged by the money lender for expenses incidental to or relating to the negotiations for the granting of a loan by the moneylender.

2. The enhancement of interest for default in repayment shall be illegal.

3. No contract for the repayment of money lent by a moneylender shall be enforceable if there is no note or memorandum in writing of the contract made, signed by the borrower, or if it is proved that the note or memorandum mentioned above was signed before the moneylender lent.

12) These three provisions are not to be found in our Bill. They might perhaps be considered by the Select Committee. The third provision has the additional advantage that it may to a certain extent put down the practice of entering a larger sum than actually lent in the note. But as against this there is the fact of illiteracy among the majority of borrowers to be considered which might render this measure of very little use.

13) A letter has been received from the Manager of the Bank of Mysore requesting that the Bank may be statutorily exempted from the operation of this Bill. a correspondent writes in the Hindu of the 6th, February that the Reserve

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Bank have issued a circular letter to all provincial Governments opining that Joint Stock Banks should generally be exempted from the provisions of legislation dealing with money lenders. The Member has ordered that this cutting may be placed in the Money Lenders Bill file.

124) If the original draft Bill (Flag J) Banks, Companies, Co-operative Societies and certain other transactions were exempted from Part III which deal with Registration and licensing and maintaining accounts in a particular manner. The other provisions relating to rate of interest etc, applied to these institutions also.

125) The whole scheme of the Bill has since been changed and this exemption in regard to Banks etc, omitted in view of the power given to the Government by cause I (2) to exempt these institutions under rules.

126) The English Act of 1900 exempts inter alia "any person bonafide carrying on the business of Banking or Insurance" from the definition of Money lender (s.6). The Madras Act has excluded transactions with Banks etc, from the definition of loan" and has separately defined the terms "Bank" etc. The C.P. and Punjab Acts have similar provisions. The Bombay Bill has excuded Banks etc, only from the provision regarding the regulation of accounts.

127) It is a point for orders whether these institutions may not be excluded under the power

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that the Government have under clause I (2) or whether they should be exempted by the statute - itself. In the latter case all these terms will have to be defined and they will have to be exempted from such of the provisions of the Bill as may not be necessary to apply to them, unless it is considered that they may be exempted from the operation of the whole Bill.

Done 24.2.39

(38) The Select Committee met on the 6th March and after discussion of some of the clauses decided to meet on the 21st March. A Copy of the draft report of the proceedings of the first day is submitted

Flag A

Date of meeting 21. 3. 39

Done 18.3.39

Issued no P 4814-28 dated 10-3-39 to the members of the S.C.

(35) The Select Committee met on the 21st March 1939 and after discussion of the Clauses of the Bill decided to meet again on the 8th April 1939. It was also decided to invite representatives of the important Moneylenders Associations to put their views before the Committee on that day.

(36) A draft letter to be sent such representatives and a draft O.M. to the members of the S.C. are submitted for orders.

(37) Done HSJ 1.3

Done 25.3.39 DPM

Issued P 5218-32 dated 3.4.39 to the members of the S.C.

Issued P 5263-6 dated 3.4.39 to the representatives of certain moneylenders: (4)

(replies)
Letters from following moneylenders Associations received:
(1) K.G.T. area dated 10.3.39
(2) Sind & Karachi Bankers Assn. 6.4.39
(3) Multan members 8.4.39.

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128) Money Lenders Bill.
Meeting of the Select Committee
6th & 7th March 1939.
Draft term calling for a meeting
is submd for approval

27/2

129) Approved
27.2

130) The S. C met on 6.3.39 and
after going through some portions of
the Bill decided to meet again on
21.3.39

131) Submd with draft term
7/3

132) Approved 7.3

Minute 1481/4 – 28 to all members of S.C., PA to Hon'ble
Ob. & Lc.

134) The S.C. met on 21.3.39 and after going through
some sections decided to meet again on the
8th April. It was also decided to invite some
representatives of moneylenders. A draft to them
and Govt. to the members submd for order.

24.3.39

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138) A draft report of the meeting on the 2nd day is annexed. As drafted certain additional Clauses to be added to the Bill are also suggested. If approved the draft of the additional clauses will be sent unofficially to the Government Advocate as advised, for suggestions if any.

3.4.39 G. A. to C. 139) for remarks.

3.4.39

Returned with compliments.

140) Provisions of section 202 of the Companies Regulation may I think with advantage be adapted in regard to the matter of appeals under this Bill. But there may be one difficulty in doing so. There is no question of ~~not~~ Convl- dealing with non-appealable cases under the Companies Act as there will be under this Bill as for example the Court of Small Causes. The following adaptation from section 202 of the Companies Act may ~~have to~~ be kindly considered in this connection:-

"Re-hearings of and appeals from any order under sub section 1 may be had in the same manner and subject to the same conditions in and subject to which appeals may be had from any order or decision of the same Court in cases within its ordinary jurisdiction. In the cases cognisable by a Court of Small Causes appeals shall lie to the principal Court of original jurisdiction in the Division".

141) The above proposal enlarges the scope of the remedy to the litigant in that it provides for a review

NOTE—Contn. Sheet.

review also. At the same time it obviates the necessity of enacting proposed Clause 19(6) altogether. and lastly it avoids what I may call an anamolous position of an appeal to the highest Court in a petty Small Cause matter being provided for when the litigent in a case of even Rs.3000/- in value will not have such an advantage. It also maintains uniformity of 30 days period for filing appeals ~~applications~~ to the Courts other than the High Court and 90 days to the High Court. Whereas the proposal as made in Sec.19(6)(a) is exactly the reverse of the uniformity obtaining so far not merely with reference to appeals under the Code of Civil Procedure but also with reference to appeals under other enactments as for example the Insolvency Regulation.

142) In any event, I think the proposal in ~~xxxx~~ 19(6)(b) seems to be superfluous in view of Act.XI of 1938.

143) I should like to add the words "Applications in" between the words "and" and "revision" and use the singular instead of the plural so that the phraze will run as "to appeals and applications in revision"

144) The word "that" in line 2 para 2 of the additional provision may I think be omitted. If ~~that~~ the proposal is to be accepted I should prefer the second of the two alternatives. It is a point for consideration whether this limitation will not nullify to a very large extent the sanction given for the offences as these offences will see the light of ~~xx~~ day mostly when the cases are taken to Court and it is indeed a very small number of them that will go to Court earlier than six months when the offences will have been -

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been committed. There is an exemption provided in Clause (c) of the proposal regarding molestation ie exemption for a bona fide demand or for collection of information. This is how molestation is being politely described now. The money-lender goes to the house of the debtor and gives him and his people trouble in the guise of making demands or gathering informations about his debtor. If the idea is to prevent such action then it is a point for consideration whether the provision should not be deleted.

Mr. Kulasingham
Government Advocate.

CSN/8.4.39

145) The Select Committee met on the 8th inst and after hearing heard representations of the following associations:

1. The Sinhalese Bankers Association (by Mr. Seth Sadhuram Mohandas)
2. The Multani ~~merchants~~ Moneylenders (by Mr B. Vasudeva Mudaliyar. Counsel)
3. The K.G.F. Moneylenders (by Mr. Harakchand Bafna)
4. The Pathan Moneylenders (by Mr. A.J. Khaleel. Counsel)

The various clauses of the Bill were then discussed. It was also decided to send a copy of an additional clause re "molesting" to the members of the Select Committee to elicit their views on its incorporation

146) A draft letter to the Members is submitted for orders.

Sgd 13.4

147) Cdtone
Sgd 10.4

NOTE—Contn. Sheet.

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Issued Do. P 5495-5508 to the Members of the S.C

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148 Received replies from all the members except Mr. Abdul Hakk, Mr. Abbas Khan, Mr. Bobbili Srinivasa Iyengar and Mr. B. S. Puttuswamy reminders issued, Dy. P 5673-6 to the four gentlemen dated 25-4-39.

149 Received reply from Mr. Abdul Hakk.

All the members who have so far sent replies are generally in favour of the clause. Mr. K.R. Srinivasa Iyengar has objected to Sub-clause (c) which prohibits loitering near the house of the debtor. Mr. White is stated to have left for England. Mr. M. S. Ramachandra Rao states that he remembers that the question of introducing the Clause was given up at the last meeting. But he has conveyed approval to the clause. The Government Advocate suggests that the Proviso to the explanation may be omitted as it almost nullifies the Provisions of the clause. Submitted for orders:

no proviso to the clause will meet the objection of Mr. Rao.

150 A draft final report is also submitted. The molestation clause has been included subject to orders.

151 An addition to clause 44 is also included as Consequent upon the addition of clause 21

Sd/ 26.4.39

152 Draft as revised

Sd/ 27.4.

153 Mr. Abbas Khan has sent a reply approving the clause suggested

Re-appeal received to retain this to keep guard the bona-fide owners of creditors

Mr. Bobbili Srinivasa Iyengar has also approved the clause

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APR 29 1939 Serial No. 8518

I have suggested the republication of the bill as some important amendment in the proposed provisions for appeals inspection & licences & moderation have been made

sd 29.4

Issued vide memo No. P 5942-6 dated 11.5.39

sd S

sd W

sd X

Typed draft as revised is submitted. (154)

(155) for approval (by members)

sd 29.4.39

Vide page 154. Note

sd 30/4/39

sd 1.5

Issued Do. nos. 1. 5789-5801 dated 3-5-39.

(157) Replies have been received from all members who attended except Mr. B. S. Puttaswamy and Mr. P. Subbarama Chetty.

Mr. Bellur Srinivasaiengar has sent a dissenting note

Mr. K. R. Srinivasaiengar has made some suggestions. The typographical errors will be Corrected. Regarding the others:

(1) Clause 19(5) - This is taken from the Company Act and draft on the suggestion of the Govt. Advocate

2. Clause 21. This is on the lines of the Bengal Bill. The words "was made" do not occur in that Bill.

3. Clause 23: This is adopted from the Punjab Act 1936 verbatim.

The Government Advocate has suggested one addition to the report.

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159) If approved for orders if the report of the Select Committee may be sent to the L. C. Office for publication, the assent of Mr. B. S. Puttaswamy and Mr. Subbarama Chetty being notified later on receipt of the same.

Sd/ 15.5.39

160) The dissenting note of Mr. Balan Sriniwasiengar is for perusal. Do also the Secretaries & Mr. A. R. Srinivasiengar (Ist Member) the two may separate notes be published

Sd/ 15/5

Since ordered Mr. K.R. Srinivasiengar's suggestion may be added to the report in the form of a note this will be done. Subsequently at the instance of the Secretaries

MAY 15 1939 9015

Secy 16/5/39

161) Mr. P. Subbarama Chetty has approved of the report subject to a dissenting note which is submitted for perusal. This will also be published along with the report if approved.

Sd/ 16.5.39.

P U D

162) The Undersecretary has since personally ordered that he has seen the note and it may be sent to the L.C. Office.

Sd/ 16.5

163) The report of the Select Committee and a copy of the Bill as amended by the S. C. also, if approved, be sent to the L. C. Office for publication

Sd/ 17.5. The note of Mr. K.R. Srinivasiengar is omitted as ordered.

17/5

Secy 17/5 Secretaries

D.1752/Pc

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781

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164

To the L.C. Office with three Copies of the Report and note and ~~Six~~ Corrected Proof Copy of the Bill as amended by the Select Committee, for necessary action

~~June~~ 17.5.39

165 3 Copies taken & files returned.
BRN 17/5/39.

17.5

166

The Select Committee Report and the Bill as amended by it were published in the Mysore Gazette of 18.5.1939.

The following motions are submitted for inclusion in the Agenda of the L.C.

1. Motion that the report of the Select Committee and the Bill as amended by them be taken into Consideration

   Mover - 1st Member

   Seconder - Law Secretary

2. Amendments.

   (A. no. of amendments have been sent by Mr. D. H. Chandrashekhariya and Mr. Behm Srinivasaiengar they are being worked up and will be submitted for orders separately)

   Mover - ~~Non-Official Member~~

   Seconder - ~~Law Secretary~~

3. Motion that the Bill as amended be passed

   Mover - 1st Member

   Seconder - Law Secretary

~~June~~ 13.6.39 (167) (2nd Member) 16/6/39 18/6

A note on the amendments is placed in the file No. 'A'

OFFICE OF THE SECRETARY TO GOVERNMENT
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OFFICE OF THE SECRETARY TO GOVERNMENT
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"C"
A 2481.

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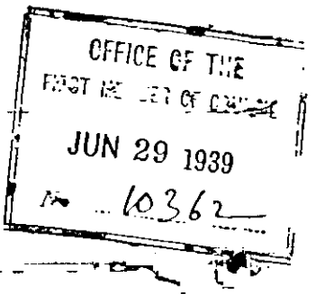

The report report of the Select Committee and the Bill as amended by it were placed before the House at its recent session and the Bill has been passed. There has been one amendment of Cl 20 moved by Mr Brien Smith-Burgess which has been accepted by the House.

A. D. F. is put up for orders.

Law Secy)

28.6.39

28-6-39

16) 1st Member)
Signed F.N. is placed in file

30/6

17) S. N. Gentleman
Secretary)

28/6/39

28.6

30.6

Final Note by the First Member of Council.

Subject.—

Promulgation into law of the Mysore Money Lenders Bill.

171 On the 14th September 1938, His Highness was graciously pleased to accord sanction to place the general principles of the Moneylenders Bill before the Representative Assembly and the introduction of the Bill in the Legislative Council in due course. The general principles of the Bill were placed before the Representative Assembly at its Dasara session of 1938 and were accepted by that House.

172 Thereafter the Bill was introduced in the Legislative Council in January 1939 and was referred to a Select Committee. The Bill as amended by the Select Committee came up for consideration by the Legislative Council at its recent session and was adopted by it with a minor amendment of clause 20.

173 I solicit the gracious sanction of His Highness to promulgate the Bill into law.

MEMBER OF COUNCIL.

Bangalore,
30th June 1939.

Submitted to His Highness.

174 / *I submit herewith a Final Note by the*...First.....

Member of Council on the subject of...Promulgation..

into law of the Mysore Money Lenders' Bill.....

.....

for His Highness' gracious approval.

Mirza M. Ismail

Bangalore,
30th June 1939.

Dewan.

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Promulgation into law of the Mysore Money Lenders' Bill.

Chief Sec.
M.
4.7.39

No. 13

757 *Order.*
~~KRW~~
3/7/39

MK
4.7.39

General and Revenue
Secretariat.

1+ 1+13

SUBJECT:—

Promulgation into Law of the Nizam Money Lenders' Bill.

(*)

31. All urgent or confidential files returned with His Highness' orders may in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at Headquarters and then sent to the Secretariat concerned for the issue of orders.

175

Circulated to Members of Council for perusal of His Highness' orders before/after issue of orders. (*Vide* Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

Chief Secretary to Government.

Through the Secretary to Government,

..L.Rev.:.....Department.

176

111
4-7-39

FIRST MEMBER OF COUNCIL.

6/7/39

177

178
5.7.39

SECOND MEMBER OF COUNCIL.

Law Secretary, with compliments

5.7.39

6/7

NOTE.—Contn. sheet

WD 0579—GPB—375—20-12-38

6/7

Moneylenders Act.

General and Revenue Secretariat | Legs File No. 4 of 1939. | [App. F. III-2

Serial No.

178) The previous assent of His Highness was accorded on 3.7.39 to promulgate the Bill into law.

A draft G.O. directing publication of the Act as Act XIII of 1939 is put up

(for Secretary) 4/7

For 8.7.

196/97

179) 4/7/97

3/10/97

Issued G.O. no P 206 Legs 4-39-1 dated 12.7.39.

180) The Act has been Published in Pt IV of today's Gazette (27-7-39).

The date from which the Act has to come into force will have to be notified in the Gazette under section 1(2). It is a point for orders which sections of the Act have to be notified and to which area and to which class of moneylenders.

A.

Maybe put up in orders separately with proposals

B. Rules also have to be framed under the Act.

May be worked separately

181) If approved this Main file will be closed and action taken separately in regard to all these points.

For 27.7.

182) A - may be dealt with in this file & closed

B - may be dealt with separately & approved points A will be taken up here

(Law Secretary) 3/28/7

GOVT DEPT. 65 HYDERABAD

A Rec

NOTE—Contn. Sheet.

183) 6/29/7 29/7

THE MONEY LENDERS' BILL.

An Act to regulate and control the transactions of money lending.

Whereas it is expedient to regulate and control the transactions of money lending; it is hereby enacted as follows:-

CHAPTER I.

Preliminary.

1. (1) This Act may be called the Mysore Money Lenders' Act 193

(2) The Government may, by notification in the official Gazette, ~~extend~~ apply all or any of the provisions of this Act ~~or any portion thereof~~ to any local area or to any class of money lender and may also by a like notification exclude from the operation of this Act any local area or exempt any class of money lenders or class of ~~money lending transactions from the operation of all or any of the provisions of this Act.~~ loans from such date as may be specified in the notification money lender or

2. In this Act unless there is anything repugnant in the subject or context:-

(1) "Court" includes a court acting in the exercise of insolvency jurisdiction;

(2) "Interest" includes any sum by whatsoever name called in excess of the principal paid or payable to a money lender in consideration of or otherwise in respect of a loan, but does not include any sum lawfully charged in accordance with the provisions of this Act or any other law for the time being in force by a money lender for or on account of costs, charges or expenses;

(3) "Loan" means an advance whether of money or in kind at interest made by a money lender and includes any transaction which in the opinion of the court is in

substance a loan;

(4) "money lender" means an ~~individual or~~ an undivided Hindu family or an unincorporated body of individuals or body corporate incorporated under any law in Mysore or an place outside Mysore, or ~~stands~~ to any such body corporat ~~in the relation~~ as a subsidiary body ~~and includes as well as~~ the assignees and the ~~L.R.~~ legal representatives of the money lender, who or which:-

(i) carries on the business of money lending in the State; or

(ii) has his or its principal place of such business in the State; and includes a pawn broker.

(5) "pawn-broker" means a person who carries on the business of taking goods and chattels in pawn for a loan;

(6) ~~"principal" means prescribed by rules made under this Act;~~ "Pawner" means a person delivering an article for pawn to a pawn-broker;

(7) "prescribed" means prescribed by rules made under this Act;

(8) "principal" means in relation to a loan the amount actually lent to the debtor;

(9) "register" means a register of money lenders maintained under Section 4; and

(10) "Registrar" means the Registrar of money lenders appointed under Section 3.

CHAPTER II.

Registration and Licensing of money lenders.

3. The Government may appoint Registrars of money lenders for the purpose of this Act and may define the local areas within which each Registrar shall exercise his powers and perform his duties.

4. The Registrar shall maintain a register of money lenders in such form as may be prescribed.

5. Every money lender shall apply in writing to the Registrar for the area in which the principal place of business of such money lender is situated or in which he intends to carry on the business of money lending to

be registered as a money lender. The application shall contain such particulars as may be prescribed. Any such person ceasing to carry on the business of money lending may on application to the said authority get his name struck off from the register.

Period of registration.

6. A registration of a money lender shall be vali valid for three years from the date of registration but may be renewed from time to time. If renewed it shall have effect for three years from the date of the renewal.

Licence

7. Every money lender whose name has been registered/shall annually take out a licence from the Registrar on payment of the prescribed fee in such form and subject to such conditions as may be prescribed for carrying on the business of money lending.

Period of licence.

8. A licence granted under Section 7 shall unless sooner cancelled be in force for 1 year from the date on which it is granted.

CHAPTER III.

Regulation of Accounts.

Accounts to be kept.

9. Every money lender shall in respect of every loan advanced by him after the commencement of this Act and every transaction made by him after the commencement of this Act relating to any loan advanced by him before the commencement of this Act, regularly record and maintain or cause to be recorded and maintained an account in such form, language, script and numerals as the Government may prescribe.

Receipt.

10. Every money lender shall, at the time of payment, give to the debtor or his agent for the sum paid by him or on his behalf, a receipt duly signed and, if necessary stamped.

Statement of account.

11 (1) Every money lender shall, on demand made in writing by the debtor at any time during the period when the loan or any part thereof has not been repaid and

on payment of the prescribed fee, furnish to the debtor, or if he so requires to any person mentioned by him in that behalf, a statement of account in the prescribed form and showing the amount which remains outstanding on account of the principal and of interest:

Provided that where a money lender has complied with the demand, the debtor shall not make a further demand for a statement of account in respect of the same loan within a period of six months from the date of such compliance.

(2) A person to whom a statement of account has been furnished under sub-section (1) shall not be bound to acknowledge or deny its correctness and his failure to object to the correctness of the account shall not by itself be deemed to be an admission of the correctness of such account.

Maintenance of account by pawn-broker.

12. (1) Every pawn-broker shall regularly record and maintain an account in which in addition to the particulars contained in the form prescribed under section 9, the following particulars are recorded, namely:-

(a) a full and detailed description of the article or of each of the articles taken in pawn,

(b) the time agreed upon for the redemption of the pawn, and

(c) the name of the pawner and where the pawner is not the owner of the article or of any of the articles pawned, the name and address of the owner thereof;

(2) A true copy of the entries in such account shall be delivered by the pawn-broker to the pawner at the time of the pawn on tender of the prescribed fee.

Inspection of accounts.

13. (1) The Registrar may inspect or cause to be inspected by any officer subordinate to him the accounts required to be maintained by a money lender under this Act.

(2) The money lender shall be bound to produce all books of account for inspection.

(3) If from such an inspection it appears that

such money lender has committed any offence under this Act, the Registrar may cause proceedings to be instituted against him in the court having jurisdiction.

CHAPTER IV.

Provisions relating to suits in respect of loans.

Rates of interest.

14. Notwithstanding anything contained in any law for the time being in force, no court shall in any suit brought in respect of a loan advanced after the commencement of this Act, pass a decree for interest at rates exceeding 9 per centum per annum in the case of a secured loan and 12 per centum per annum in the case of an unsecured loan.

Rates of Compound interest.

15. No money lender shall recover by suit interest of any kind at a rate exceeding 6 per centum per annum in respect of any loan made after the commencement of this Act under a contract which provides for the payment of compound interest.

Arrears of interest not to exceed principal.

16. No court shall, in respect of a loan advanced before or after the commencement of this Act, decree on account of arrears of interest, a sum greater than the principal of the original loan.

Disallowance of interest if S. 9 or S. 12 is not complied with.

17. Notwithstanding anything contained in any enactment for the time being in force, (a) if in any suit or proceeding relating to a loan the court finds that the provisions of section 9 or section 12 have not been complied with by the money lender it may, if the plaintiff's claim is established, in whole or in part, disallow the whole or any portion of the interest found due, as may seem reasonable to it in the circumstances of the case and may disallow costs;

(b) if the money lender to whom a demand has been made under section 11 fails without reasonable excuse to comply therewith within one month after the demand has been made, the court shall disallow interest for the period of default.

CHAPTER V.

Penalties.

Penalty. Suspension or cancellation of licence.

18. (1) Where in any suit brought in respect of a loan by a money lender, the court is of opinion that the money lender has been guilty of fraud or of any contravention of the provisions of this Act or of any rule made thereunder or is otherwise unfit to carry on the business of money lending, the court may order that the licence held by such money lender be suspended for such time as the court may think fit or cancelled and may also declare such money lender disqualified from obtaining a licence under this Act either permanently or for such period as it thinks fit.

(2) The court shall cause the particulars of any order made under this section to be endorsed on the licence held by the money lender against whom such order is made and shall cause copy of its order to be sent to the Registrar by whom the licence was granted for the purpose of entering such particulars in the Register.

(3) Every holder of a licence shall, on being called upon by the court to do so, produce the licence within such time as may be directed by the court.

(4) Any person whose licence has been cancelled or suspended in accordance with the provisions of this section shall, during the period for which such order of cancellation has effect or during the period of suspension as the case may be, be disqualified from obtaining a licence.

Punishment.

19. Whoever makes default in complying with or acts in contravention of any provision of this Act shall, if no specific penalty has been provided in this Act, be punishable for the first offence with fine which may extend to Rs.200 and for a second or subsequent offence with imprisonment of either description for a term not exceeding one month or with fine which

may extend to Rs. 500 or with both and shall also be liable to have his licence cancelled.

CHAPTER VI.

Miscellaneous.

Rules.

20. (1) The Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(i) the form of the register mentioned in section 4;

(ii) the form of the application mentioned in section 5 and the particulars to be contained therein;

(iii) the form and conditions of the licence, mentioned in section 7, the fee therefor and the manner of payment of the fee;

(iv) the form, language, script and numerals to be used in the accounts required to be kept under section 9;

(v) the form of the statement of account to be furnished under section 11 and the details to be included therein and the fee to be paid for such statement; and

(vi) the fee to be paid for a copy of the entries in a pawn-broker's account to be furnished under section 12.

Savings

21. Nothing contained in this Act shall affect the provisions of the Mysore Agriculturists Relief Act, 1928 or the powers of a court under the Usurious Loans Act, 1923

Application of Act to transactions of others.

22. The Government may, by notification in the official Gazette, apply so much of this Act as relates to the maximum rates of interest, compound interest, limit of arrears of interest that may be recovered and regulation of accounts, to the loan transactions

of creditors other than money lenders.

Enclosure II para 4 of 7 & 8

STATEMENT OF OBJECTS AND REASONS.

...

The need for controlling and regulating the transaction of money-lending by legislation in order to protect ignorant debtors against fraud and extortion is now generally recognised and the Bill is designed to secure this without, at the same time, interfering unduly with the system of private contract.

2 The question of legislation for controlling money lending has been coming up in the Representative Assembly often. At the Dasara Session of 1933, a resolution was moved in the matter and the Government accepted the principle underlying the resolution and said that they would take needful action as soon as practicable.

3 There was also a resolution in the Representative Assembly in October 1937 recommending legislation for licensing money lenders and pawn brokers and regulating the keeping of proper accounts by them.

Government stated in reply that necessary legislation would be introduced.

4 The question has since been examined and Government are of opinion that legislative action is called for. To decide as to the provisions to be included if legislation is undertaken, ~~In 1933,~~ the Government consulted in 1933 informally a Committee of some non-official gentlemen whose recommendations have been considered and provided for wherever they were found suitable.

5 The Royal Commissioner on Agriculture, the Royal Commission on Labour and the Banking Enquiry Committee have all recommended legislation for controlling money lending business on certain lines. Certain of the British Indian Provinces have already taken or are taking action.

6

We have in the Statute Book two pieces of legislation affecting money-lending, viz., the Usurious Loans Act and the Agriculturists' Relief Act. But they go only a small way in giving relief to debtors. The Agriculturists' Relief Act applies only to the class of small agriculturists. The two Acts (are ineffective as against the unscrupulous methods employed by a certain class of money-lenders and) give no relief to the debtors of the ordinary middle or working classes.

The business of money-lending, as carried on by certain classes of money lenders, is ~~very unsatisfactory~~ far from and places the debotrs who are largely drawn from the middle and working classes at their tender mercies. The need, ignorance and illiteracy of the debtors are being exploited by them to an un-conscionable degree. {A certain class of money-lenders, as a rule, never given receipts for the moneys received from debtors and they keep accounts in a language and form which none but themselves can decipher and understand.}

The interest charged is exorbitantly high and it seems to be necessary to fix a reasonable maximum. The aim of the Bill therefore is to fix a reasonable maximum rate of interest in cases coming before courts, to provide for the good and safe conduct of the business of certain kinds of money-lending and to secure {as between certain classes of money-lenders and debtors} an improved system of keeping accounts which will give to the ~~latter~~ debtor the means of ascertaining periodically how their accounts stand and how they are composed. Provision is also made for registration and licencing of money-lenders. At the same time, the Bill is cautious enough not to unnecessarily harass the money-lenders and restrict the facilities for credit. (~~By taking power to except certain classes of loans, it~~

~~expressly avoids interference with accounts connected with~~ trade ~~and commerce~~.) The penalties for non-compliance of the provisions of the bill are not hard, but reasonable and just sufficient to meet the requirements of the case.

STATEMENT OF GENERAL PRINCIPLES OF THE MONEY LENDERS BILL.

The question of introducing legislation for the control of money lending business in order to protect ignorant debtors against fraud and extortion has been under consideration of Government for some time past. The desirability of having legislation in the matter was also being urged both in the Representative Assembly and Legislative Council. ~~The need for such legislation was recognised~~ and some leading non-official gentlemen were consulted by Government in 1933 with a view to decide upon the form of the legislation. They were generally in favour of legislation and their suggestions have been adopted to the extent they were found suitable.

The existing Acts, Usurious Loans Act and Agriculturists Relief Act are not sufficient to give relief to the debtors. The business of money lending, as carried on by certain classes of money lenders, is defective. Regular accounts are not ordinarily kept and receipts are not sometimes given for money paid by the debtors. The interest charged is also high. It is therefore proposed to introduce a Bill for the control of the business of money lending in the interest of ~~the~~ debtors ~~most of whom are illiterate and ignorant.~~ A reasonable maximum rate of interest that may be allowed by Courts will be fixed. Provision ~~will~~ be made for the safe conduct of the business by requiring ~~the~~ proper maintenance of accounts and giving opportunities to the debtors to ascertain periodically the state of the accounts. Provision ~~will~~, also be made for registration and licensing of money lenders. At the same time

care is taken to see that the Bill does not unnecessarily harass money lenders and restrict facilities for credit.

penalties needed for non compliance
of the provisions of the bill are not harsh
but reasonable & just sufficient to
meet the requirements of the Case

Affirmed by the Secretary meeting

KO
12.9

ine to para 78

THE MONEY LENDERS' BILL.

An Act to regulate and control the transactions of money lending.

Whereas it is expedient to regulate and control the transactions of money lending; It is hereby enacted as follows:-

Chapter I.

Preliminary.

1. (1) This Act may be called the Mysore Money Lenders' Act 193-

(2) The Government may, by notification in the official Gazette, extend the provisions of this Act or any portion thereof to any local area or to any class of money lenders and may also by a like notification exclude from the operation of this Act any local area or exempt any class of money lenders or class of money lending transactions from the operation of all or any of the provisions of this Act.

2. In this Act unless there is anything repugnant in the subject or context:

(1) "Court" includes a court acting in the exercise of insolvency jurisdiction;

(2) "interest" includes any sum by whatsoever name called in excess of the principal paid or payable to a money lender in consideration of or otherwise in respect of a loan, but does not include any sum lawfully charged in accordance with the provisions

of this Act or any other law for the time being in force by a money lender for or on account of costs, charges or expenses;

(3) "loan" means an advance whether of money or in kind at interest made by a money lender and includes any transaction which in substance is a loan;

(4) "Money lender" means ~~an individual or~~ an undivided Hindu family or an unincorporated body of individuals or body corporate incorporated under any law in ~~British India~~, or any ~~place outside British India~~, or stands to any such body corporate in the ~~relation~~ of a subsidiary body, who or which--

(i) carries on the business of money lending in the ~~province~~; or

(ii) has his or its principal place of such business in the ~~province~~; and

includes a pawn broker.

(8) "principal" means in relation to a loan the amount actually lent to the debtor;

(9) "Register" means a register of money lenders maintained under Section 4; and

(10) "Registrar" means the Registrar of money lenders appointed under Section 3.

Chapter II.

Registration and Licensing of money lende

3. The Government may appoint Registrars of money lenders for the pur---f this Act and may define the local areas within which each Registrar shall exercise his powers and perform his duties.

4. The Registrar shall maintain a register of money lenders in such form as may be prescribed.

5. Every money lender shall apply in writing to the Registrar for the area in which the principal place of business of such money lender is situated to be registered as a money lender. The application shall contain such particulars as may be prescribed. Any such person ceasing to carry on the business of money lending may on application to the said authority get his name struck off from the register.

6. A registration of a money lender shall be valid for three years from the date of registration but may be renewed from time to time. If renewed it shall have effect for three years from the date of the renewal.

7. Every money lender whose name has been registered shall annually take out a licence from the Registrar on payment of the prescribed fee in such form and subject to such conditions as may be prescribed for carrying on the business of money lending.

8. A license granted under Section 7 shall unless sooner cancelled be in force for 1 year from the date on which it is granted.

Chapter. III.

Regulation of Accounts.

9. Every money lender shall in respect of every loan advanced by him after the commencement of this Act and every transaction made by him after the commencement of this Act relating to any loan

advanced by him before the commencement of this Act, regularly record and maintain or cause to be recorded and maintained an account in such form, language, script and numerals as the Government may prescribe.

10. Every money lender shall, at the time of payment, give to the debtor or his agent for the sum paid by him or on his behalf, a receipt duly signed and, if necessary stamped.

11 (1) Every money lender shall, on demand made in writing by the debtor at any time during the period when the loan or any part thereof has not been repaid and on payment of the prescribed fee, furnish to the debtor, or if he so requires to any person mentioned by him in that behalf, a statement of account in the prescribed form and showing the amount which remains outstanding on account of the principal and of interest:

Provided that where a money lender has complied with the demand the debtor shall not make a further demand for a statement of account in respect of the same loan within a period of six months from the date of such compliance.

(2) A person to whom a statement of account has been furnished under sub-section (1) shall not be bound to acknowledge or deny its correctness and his failure to object to the correctness of the account shall not by itself be deemed to be an admission of the correctness of such

account.

12. (1) Every pawn-broker shall regularly record and maintain an account in which in addition to the particulars contained in the form prescribed under section 9, the following particulars are recorded, namely -

(a) a full and detailed description of the article or of each of the articles taken in pawn,

(b) the time agreed upon for the redemption of the pawn, and

(c) the name of the pawner and where the pawner is not the owner of the article or of any of the articles pawned, the name and address of the owner thereof,

(2) A copy of the entries in such account shall be delivered by the pawn-broker to the pawner at the time of the pawn on tender of the prescribed fee.

13(1)The Registrar may inspect or cause to be inspected by any officer subordinate to him the accounts required to be maintained by a money lender under this Act.

(2)The money lender shall be bound to produce all books of account for inspection.

(3)If from such an inspection it appears that such money lender has committed any offence under this Act, the Registrar may cause proceedings to be instituted against him in the court having jurisdiction.

Chapter IV.

Provisions relating to suits in respect of loans.

14. Notwithstanding anything contained in any law for the time being in force, no court shall in any suit brought in respect of a loan advanced after the commencement of this Act, pass a decree for interest at rates exceeding 9 per centum per annum in the case of a secured loan and 12 per centum per annum in the case of an unsecured loan.

15. No money lender shall recover by suit interest of any kind at a rate

Subject to approval Sd

exceeding 6 per centum per annum in respect of any loan made after the commencement of this Act under a contract which provides for the payment of compound interest

15. No court shall, in respect of a loan advanced before or after the commencement of this Act, decree on account of arrears of interest, a sum greater than the principal of the original loan.

G.B 14(2)(b)

17 16. Notwithstanding anything contained in any enactment for the time being in force (as if in any suit or proceeding relating to a loan, ~~(a) the court shall, before deciding the claim on merits, frame and decide the issue whether the money lender has complied with the provisions of section 9 or section 12;~~

Bombay 25

(b) ~~If~~ the court finds that the provisions of section 9 or section 12 have not been complied with by the money lender it may, if the plaintiff's claim is established, in whole or in part, disallow the whole or any portion of the interest found due, as may seem reasonable to it in the circumstances of the case and may disallow costs;

G.B.8(1) Mysore

(b) if the money lender to whom a demand has been made under section 11 fails without reasonable excuse to comply therewith within one month after the demand has been made, the court shall disallow interest for the period of default.

Chapter V.

Penalties.

G.B 17. Bihar 19 Uttar Pradesh 17

18 (1) Where in any suit brought in

respect of a loan by a money lender, the court is of opinion that the money lender has been guilty of fraud or of any contravention of the provisions of this Act or of any rule made thereunder or is otherwise unfit to carry on the business of money lending, the court may order that the licence held by such money lender be suspended for such time as the court may think fit or cancelled and may also declare such money lender disqualified from obtaining a license under this Act either permanently or for such period as it thinks fit.

(2) The court shall cause the particulars of any order made under this section to be endorsed on the licence held by the money lender against whom such order is made and shall cause copy of its order to be sent to the Registrar by whom the licence was granted for the purpose of entering such particulars in the Register.

(3) Every holder of a licence shall, on being called upon by the court to do so produce the licence within such time as may be directed by the court.

(4) Any person whose licence has been cancelled or suspended in accordance with the provisions of this section shall, during the period for which such order of cancellation has effect or during the period of suspension as the case may be, be disqualified from obtaining a licence.

19
~~18~~. Whoever makes default in complying

6 B 16(2)
Bihar 39.

with or acts in contravention of any provision of this Act shall, if no specific penalty has been provided in this Act, be punishable for the first offence with fine which may extend to Rs.200 and for a second or subsequent offence with imprisonment of either description for a term not exceeding one month or with fine which may extend to Rs.500 or with both. and shall also be liable to have his licence cancelled

Chapter VI.

Miscellaneous.

20
~~19~~. (1) The Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(i) the form of the register mentioned in section 4;

(ii) the form of the application mentioned in section 5 and the particulars to be contained therein;

(iii) the form and conditions of the licence, mentioned in section 7, the fee therefor and the manner of payment of the fee;

(iv) the form, language, script and numerals to be used in the accounts required to be kept under section 9;

(v) the form of the statement of account to be furnished under section 11 and the details to be included therein and the fee to be paid for such statement; and

B.B. 19.
~~Printed~~
Bombay, 42.

(vi) the fee to be paid for a copy of the entries in a pawn-broker's account to be furnished under section 12.

20. Nothing contained in this Act shall affect the provisions of the Mysore Agriculturists Relief Act, 1928 or the powers of a court under the Usurious Loans Act, 1923.

21. The Government may, by notification in the official Gazette, apply so much of this Act as relates to the maximum rates of interest, compound interest, limit of arrears of interest that may be recovered and regulation of accounts, to the loan transactions of creditors other than [those advancing loans in the regular course of busines

STATEMENT OF OBJECTS AND REASONS.

The need for controlling and regulating the transaction of money-lending by legislation in order to protect ignorant debtors against fraud and extortion is now generally recognised and the Bill is designed to secure this end without, at the same time, interfering unduly with the system of private contract.

The question of legislation for controlling money lending has been coming up in the Representative Assembly often. At the Dasara Session of 1933, a resolution was moved in the matter and the Government accepted the principle underlying the resolution and said that they would take needful action as soon as practicable.

There was also a resolution in the Representative Assembly in October 1937 recommending legislation for licencing money lenders and pawn brokers and regulating the keeping of proper accounts by them.

Government stated in reply that necessary legislation would be introduced

The question has since been examined and Government are of opinion that legislative action is called for. To decide as to the provisions to be included if legislation is undertaken, in 1933 the Government consulted informally a Committee of some non-official gentlemen whose recommendations have been considered and provided for wherever they were found suitable.

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We have in the Statute Book two pieces of legislation affecting money-lending, viz., the Usurious Loans Act and the Agriculturists' Relief Act. But they go only a small way in giving relief to debtors.. The Agriculturists' Relief Act applies only to the class of small agriculturists. The two Acts are ineffective as against the unscrupulous methods employed by a certain class of money-lenders and give no relief to the debtors of the ordinary middle or working classes.

The business of money-lending, as carried on by certain classes of money-lenders, is very unsatisfactory and places the debtors who are largely drawn from the middle and working classes at their tender mercies. The need, ignorance and illiteracy of the debtors are being exploited by them to an un-conscionable degree. A certain class of money-lenders, as a rule, never give receipts for the moneys they receive from debtors and they keep their accounts in a language and form which none out themselves can decipher and understand.

The interest charged is exorbitantly high and it seems to be necessary to fix a reasonable maximum. The aim of the Bill therefore is to fix a reasonable maximum rate of interest, to provide for the good and safe conduct of the business of certain kinds of money-lending and to secure as between certain classes of money-lenders and debtors an improved system of keeping accounts which will give to the latter the means of ascertaining periodically how their accounts stand and how they are composed. Provision is also made for registration and licencing of money-lenders. At the same time, the Bill is cautious enough not to unnecessarily harass the money-lenders and restrict

the facilities for credit. By taking power to except certain classes of loans, it expressly avoids intereference with ~~xxx~~accounts connected with trade and commerce. The penalties for non-compliance of the provisions of the bill are not hard, but reasonable and just sufficient to meet the requirements of the case.

See para 78 notes.

THE MONEY LENDERS' BILL.

An Act to regulate and control the transactions of money lending.

Whereas it is expedient to regulate and control the transactions of money lending; it is hereby enacted as follows:-

CHAPTER I.

Preliminary.

Short title

1. (1) This Act may be called the Mysore Money Lenders' Act 193

Application

(2) The Government may, by notification in the official Gazette, ~~extend~~ add, alter or vary the provisions of this Act ~~or any portion thereof~~ to any local area or to any class of money lenders and may also by a like notification exclude from the operation of this Act any local area or exempt ~~any~~ any money lender or class of money lenders or class of ~~money-lending transactions~~ loans from the operations of all or any of the provisions of this Act.

Definitions

2. In this Act unless there is anything repugnant in the subject or context:-

(1) "Court" includes a Court acting in the exercise of insolvency jurisdiction;

(2) "Interest" includes any sum by whatsoever name called in excess of the principal paid or payable to a money lender in consideration of or otherwise in respect of a loan, but does not include any sum lawfully charged in accordance with the provisions of this Act or any other law for the time being in force by a money lender for or on account of costs, charges or expenses;

(3) "Loan" means an advance whether of money or in kind ~~as~~ or interest made by a money lender and includes any transaction which in the opinion of the court is in

substance a loan;

(4) "money lende_ means an individual or an undivided Hindu family or an unincorporated body of individuals or body corporate incorporated under any law in Mysore or ~~a place~~ outside Mysore, or ~~stands~~ to any such body corpora ~~in the relation~~ of a subsidiary body and ~~includes as wel~~ the assignees and the L.R. of the money lender who or which:-

(i) carries on the business of money lending in the State; or

(ii) has his or its principal place of such business in the State; and includes a pawn broker.

(5) "pawn-broker" means a person who carries on the business of taking goods and chattels in pawn for a loan

(6) "principal" means ~~prescribed by rules made under this Act;~~

(7) "prescribed" means prescribed by rules made under this Act;

(8) "principal" means in relation to a loan the amoun actually lent to the debtor;

(9) "register" means a register of money lenders maintained under Section 4; and

(10) "Registrar" means the Registrar of money lenders appointed under Section 3.

CHAPTER II.

Registration and Licensing of money lenders.

3. The Government may appoint Registrars of money lenders for the purpose of this Act and may define the local areas within which each Registrar shall exercise his powers and perform his duties.

4. The Registrar shall maintain a register of money lenders in such form as may be prescribed.

5. Every money lender shall apply in writing to the Registrar for the area in which the principal place of business of such money lender is situated or in which he intends to carry on the business of money lending to be

be registered as a money lender. The application shal contain such particulars as may be prescribed. Any such person ceasing to carry on the business of money lending may on application to the said authority get his name struck off from the register.

Duration of registration

6. A registration of a money lender shall be ~~val~~ valid for three years from the date of registration but may be renewed from time to time. If renewed it shall have effect for three years from the date of the renewal.

Licence.

7. Every money lender whose name has been registered shall annually take out a licence from the Registrar on payment of the prescribed fee in such form and subject to such conditions as may be prescribed for carrying on the business of money lending.

Licence to be annual.

8. A licence granted under Section 7 shall unless sooner cancelled be in force for 1 year from the date on which it is granted.

CHAPTER III.

Regulation of Accounts.

Duty to keep accounts.

9. Every money lender shall in respect of every loan advanced by him after the commencement of this Act and every transaction made by him after the commencemen of this Act relating to any loan advanced by him before the commencement of this Act, regularly record and main tain or cause to be recorded and maintained an account in such form, language, script and numerals as the Government may prescribe.

Receipt to be given

10. Every money lender shall, at the time of payment, give to the debtor or his agent for the sum paid by him or on his behalf, a receipt duly signed and, if necessary stamped.

Furnishing statement of account

11 (1) Every money lender shall, on demand made in writing by the debtor at any time during the period when the loan or any part thereof has not been repaid,

on payment of the prescribed fee, furnish to the debtor, or if he so requires to any person mentioned by him in that behalf, a statement of account in the prescribed form and showing the amount which remains outstanding on account of the principal and of interest:

Provided that where a money lender has complied with the demand the debtor shall not make a further demand for a statement of account in respect of the same loan within a period of six months from the date of such compliance.

(2) A person to whom a statement of account has been furnished under sub-section (1) shall not be bound to acknowledge or deny its correctness and his failure to object to the correctness of the account shall not by itself be deemed to be an admission of the correctness of such account.

Duty of pawnbrokers to keep accounts.

12. (1) Every pawn-broker shall regularly record and maintain an account in which in addition to the particulars contained in the form prescribed under section 9, the following particulars are recorded, namely:-

(a) a full and detailed description of the article or of each of the articles taken in pawn,

(b) the name of the pawnor and where the pawnor is not the owner of the article or of any of the articles pawned, the name and address of the owner thereof,

(2) A true copy of the entries in such account shall be delivered by the pawn-broker to the pawnor at the time of the pawn on tender of the prescribed fee.

Inspection by Registrar.

13. (1) The Registrar may inspect or cause to be inspected by any officer subordinate to him the accounts required to be maintained by a money lender under this Act.

(2) The money lender shall be bound to produce all books of account for inspection.

(3) If from such an inspection it appears that

What is necessary
and sufficient under various
domains set.

such money lender has committed any offence under this Act, the Registrar may cause proceedings to be instituted against him in the court having jurisdiction.

CHAPTER IV.

Provisions relating to suits in respect of loans.

Maximum rate of interest to be decreed

14. Notwithstanding anything contained in any law for the time being in force, no court shall in any suit brought in respect of a loan advanced after the commencement of this Act, pass a decree for interest at rates exceeding 9 per centum per annum in the case of a secured loan and 12 per centum per annum in the case of an unsecured loan.

Maximum rate of compound interest.

15. No money lender shall recover by suit interest of any kind at a rate exceeding 6 per centum per annum in respect of any loan made after the commencement of this Act under a contract which provides for the payment of compound interest.

Arrears of interest not to exceed principal.

16. No court shall, in respect of a loan advanced before or after the commencement of this Act, decree on account of arrears of interest, a sum greater than the principal of the original loan.

Penalty on non-compliance with section 9 or section 12.

17. Notwithstanding anything contained in any enactment for the time being in force, (a) if in any suit or proceeding relating to a loan the court finds that the provisions of section 9 or section 12 have not been complied with by the money lender it may, if the plaintiff's claim is established, in whole or in part, disallow the whole or any portion of the interest found due, as may seem reasonable to it in the circumstances of the case and may disallow costs;

(b) if the money lender to whom a demand has been made under section 11 fails without reasonable excuse to comply therewith within one month after the demand has been made, the court shall disallow interest for the period of default.

CHAPTER V.

Penalties.

Courts' power to suspend or cancel licence.

18. (1) Where in any suit brought in respect of a loan by a money lender, the court is of opinion that the money lender has been guilty of fraud or of any contravention of the provisions of this Act or of any rule made thereunder or is otherwise unfit to carry on the business of money lending, the court may order that the licence held by such money lender be suspended for such time as the court may think fit or cancelled and may also declare such money lender disqualified from obtaining a licence under this Act either permanently or for such period as it thinks fit.

(2) The court shall cause the particulars of any order made under this section to be endorsed on the licence held by the money lender against whom such order is made and shall cause copy of its order to be sent to the Registrar by whom the licence was granted for the purpose of entering such particulars in the Register.

(3) Every holder of a licence shall, on being called upon by the court to do so produce the licence within such time as may be directed by the court.

(4) Any person whose licence has been cancelled or suspended in accordance with the provisions of this section shall, during the period for which such order of cancellation has effect or during the period of suspension as the case may be, be disqualified from obtaining a lic

Penalty for contravention of provisions.

19. Whoever makes default in complying with or acts in contravention of any provision of this Act shall, if no specific penalty has been provided in this Act, be punishable for the first offence with fine which may extend to Rs.200 and for a second or subsequent offence with imprisonment of either description for a term not exceeding one month or with fine which

may extend to Rs. 500 or with both and shall also be liable to have his registration and license cancelled.

CHAPTER VI.

Miscellaneous.

Power to make rules.

20. (1) The Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(i) the form of the register mentioned in section 4;

(ii) the form of the application mentioned in section 5 and the particulars to be contained therein;

(iii) the form and conditions of the licence, mentioned in section 7, the fee therefor and the manner of payment of the fee;

(iv) the form, language, script and numerals to be used in the accounts required to be kept under section 9;

(v) the form of the statement of account to be furnished under section 11 and the details to be included therein and the fee to be paid for such statement; and

(vi) the fee to be paid for a copy of the entries in a pawn-broker's account to be furnished under section 12.

21. Nothing contained in this Act shall affect the provisions of the Mysore Agriculturists Relief Act, 1928 or the powers of a court under the Usurious Loans Act, 1923.

22. The Government may, by notification in the official Gazette, apply ~~so much of this Act as relates to the maximum rates of interest, compound interest, limit of arrears of interest that may be recovered and regulation of accounts~~, to the loan transactions

of creditors other than money lenders.

THE MONEY LENDERS' BILL.

An Act to regulate and control the transactions of money lending.

Whereas it is expedient to regulate and control the transactions of money lending; it is hereby enacted as follows:-

CHAPTER I.

Preliminary.

Short Title.

1. (1) This Act may be called the Mysore Money Lenders' Act 193

Application.

(2) The Government may, by notification in the official Gazette, apply all or any of the provisions of this Act to any local area or to any class of money lenders from such date as may be specified in the notification and may also by a like notification exclude from the operation of this Act any local area or exempt any money lender or class of money lenders or any class of loans from the operation of all or any of the provisions of this Act.

Definitions.

2. In this Act unless there is anything repugnant in the subject or context:-

(1) "Court" includes a Court acting in the exercise of insolvency jurisdiction;

(2) "Interest" includes any sum by whatsoever name called in excess of the principal paid or payable to a money lender in consideration of or otherwise in respect of a loan, but does not include any sum lawfully charged in accordance with the provisions of this Act or any other law for the time being in force by a money lender for or on account of costs, charges or expenses;

(3) "Loan" means an advance whether of money or in kind on interest made by a money lender and includes

CHAPTER II.

Registration and Licensing of money lenders.

Appointment of Registrars.

3. The Government may appoint Registrars of money lenders for the purpose of this Act and may define the local areas within which each Registrar shall exercise his powers and perform his duties.

Register of money lenders.

4. The Registrar shall maintain a register of money lenders in such form as may be prescribed.

Application for registration.

5. Every money lender shall apply in writing to the Registrar for the area in which the principal place of business of such money lender is situated or in which he intends to carry on the business of money lending to be registered as a money lender. The application shall contain such particulars as may be prescribed. On receipt of such application the Registrar shall register the name of the applicant in the Register unless disqualified under Section 19. Any such person ceasing to carry on the busin of money lending may on application to the said authority get his name struck off from the register.

Duration of registration.

6. A registration of a money lender shall be valid for three years from the date of registration but may be renewed from time to time. If renewed it shall have effect for three years from the date of the renewal

Licence.

7. Every money lender whose name has been registered and to whom this section is made ap able shall annually take out a licence from the Registrar on payment of the prescribed fee in such form and subject to such conditions as may be prescribed for carrying on the business of money lending.

Licence to be annual.

8. A licence granted under Section 7 shall unless sooner cancelled be in force for one year from the date on which it is granted.

any transaction which in the opinion of the court is in substance a loan;

(4)"money lender" means an individual or an undivided Hindu family or an unincorporated body of individuals or body corporate incorporated under any law in Mysore or outside Mysore, or a body which stands to any such body corporate in the relation of a subsidiary body and includes assignees and the legal representative of the money lender, who or which

(i) carries on the business of money lending in the State; or

(ii) has his or its principal places of such business in the State; and includes a pawn broker;

(5) "Money lending business" or "business of money lending" means the business of advancing loans either solely or in common with any business;

(6) "pawn-broker" means a person who carries on the business of taking goods and chattels in pawn for a loan;

(7) "Pawnor" means a person delivering an article for pawn to a pawn-broker;

(8)"prescribed" means prescribed by rules made under this Act;

(9) "principal" means in relation to a loan the amount actually lent to the debtor;

(10) "register" means a register of money lenders maintained under Section 4; and

(11) "Register" means the Register of money lenders appointed under Section 3.

(12) "Secured loan" means a loan for which the money lender holds a mortgage, charge or lien on the property of the debtor or any part thereof as a securi for that loan;

(13) "unsecured loan" means any loan other than a secured loan.

CHAPTER III.

Regulation of Accounts.

Duty to keep accounts.

9. Every money lender shall in respect of every loan advanced by him after the commencement of this Act and every transaction made by him after ~~the~~ ~~after~~ the commencement of this Act relating to any loan advanced by him before the commencement of this Act, regularly record ~~or~~ and maintain or cause to be recorded and maintained an account in such form, language, script and numerals as the Government may prescribe.

Receipt to be given.

10. Every money lender shall, at the time of payment, give to the debtor or his agent for the sum paid by him or on his behalf, a receipt duly signed and if necessary stamped.

Furnishing statement of account.

11. (1) Every money lender shall, on demand made in writing by the debtor at any time during the period when the loan or any part thereof has not been repaid, on payment of the prescribed fee, furnish to the debtor or if he ~~is~~ so requires to any person mentioned by him in that behalf, a statement of account in the prescribed form and showing the amount which remains outstanding on account of the principal and of interest:

Provided that where a money lender has complied with the demand, the debtor shall not make a further demand for a statement of account in respect of the same loan within a period of six months from the date of such compliance.

(2) A person to whom a statement of account has been furnished under sub-section (1) shall not be bound to acknowledge or deny its correctness and his failure to object to the correctness of the account shall not by itself be deemed to be an admission of the correctness of such account.

Duty of pawn-brokers to keep accounts.

12.(1) Every pawn-broker shall regularly record and maintain an account in which in addition to the particulars contained in the form prescribed under section 9, the following particulars are ~~xxxxx~~ recorded, namely:-

(a) a full and detailed description of the article or of each of the articles taken in pawn,

(b) the name of the pawnor and where the pawnor is not the owner of the article or of any of the articles pawned, the name and address of the owner thereof,

(2) A true copy of the entries in such account shall be delivered by the pawn-broker to the pawnor at the time of the pawn on tender of the prescribed fee.

Inspection by registrar.

13. (1) The Registrar may inspect or cause to be inspected by any officer subordinate to him the accounts required to be maintained by a money lender under this Act.

(2) The money lender shall be bound to produce al books of account for inspection.

(3) If from such an inspection it appears that such money lender has committed any offence under this Act, the Registrar may cause proceedings to be instituted against him in the court having jurisdiction.

CHAPTER IV.

Provisions relating to suits in respect of loans.

The maximum rates of interest to be decreed.

14. Notwithstanding anything contained in any law for the time being in force, no court shall in any suit brought in respect of a loan advanced after the commencement of this Act, pass a decree for interest at rates exceeding 9 percentum per annum in the case of a secured loan and 12 per centum per annum in the case of an unsecured loan.

Maximum rate of compound interest.

15. No money lender shall recover by suit interest of any kind at a rate exceeding 6 per centum per annum ~~in res-~~ in respect of any loan made after the commencement of this Act under a contract which provides for the payment of compound interest.

What is excessive interest under usurious Loans Act.

16. Where the interest charged is in excess of the rates prescribed as maximum ~~the~~ in Sections 14 and 15, the Court shall presume for the purpose of section 3 of the usurious Loans Act that the interest charged is excessive and that the transaction was ~~absolutely~~ substantially unfair.

Arrears of interest not to exceed principal.

17. No Court shall, in respect of a loan advanced before or after the commencement of this Act, decree on account of arrears of interest, a sum greater than the principal of the original loan.

Penalty for non-compliance with section 9 or section 12.

18. Notwithstanding anything contained in any enactment for the time being in force, (a) if in any ~~INTEREST~~ suit or proceeding relating to a loan the court finds that the provisions of section 9 or section 12 have not been complied with by the money lender it may, if the plaintiff's claim is established, in whole or in part, disallow the whole or any portion of the interest found due, as may seem reasonable to it in the circumstances of the case and may disallow costs;

(b) if the money lender to whom a demand has been made under section 11 fails without reasonable excuse to comply therewith within one month after the demand has been made, the court shall disallow interest for the period of default.

CHAPTER V.

Penalties.

Court's power to suspend or cancel licence.

19.(1) Where in any suit brought in respect of a loan by a money lender, the court is of opinion that the money lender has been guilty of fraud or of any contravention of the provisions of this Act or of any rule made thereunder or is otherwise unfit to carry on the business of money lending the court may order that the licence held by such money lender or his registration be suspended for such time as the court may think fit or cancelled and may also declare such money lender disqualified from obtaining a licence under this Act or being registered

either permanently or for such period as it thinks fit.

(2) The court shall cause the particulars of any order made under this section to be endorsed on the licence held by the money lender against whom such order is made and shall cause copy of its order to be sent to the Registrar by whom the licence was granted or the registration was made for the purpose of entering such particulars in the Register.

(3) Every holder of a licence shall, on being called upon by the court to do so, produce the licence within such time as may be directed by the court.

(4) Any person whose licence or registration has been cancelled or suspended in accordance with the provisions of this section shall, during the period for which such order of cancellation has effect or during the period of suspension, as the case may be, be disqualified from being registered or obtaining a licence.

Penalty for contravention of provisions

20. Whoever makes default in complying with or acts in contravention of any provision of this Act shall, if no specific penalty has been provided in this Act, be punishable for the first offence with fine which may extend to Rs.200 and for a second or subsequent offence with imprisonment of either description for a term not exceeding one month or with fine which may extend to Rs. 500 or with both and shall also be liable to have his registration and licence cancelled.

CHAPTER VI.

Miscellaneous.

Power to make rules.

21. (1) The Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(1) ~~for~~ the form of the register mentioned in section 4;

(ii) the form of the application mentioned in section 5 and the particulars to be contained therein;

(iii) the form and conditions of the licence, mentioned in section 7, the fee therefor and the manner of payment of the fees;

(iv) the form, language, script and numerals to be used in the accounts required to be kept under section 9;

(v) the form of the statement of account to be furnished under section 11 and the details to be included therein and the fee to be paid for such statement; and

(vi) the fee to be paid for a copy of the entries in a pawn-broker's account to be furnished under section 12.

22. Nothing contained in this Act shall affect the provisions of the Mysore Agriculturists Relief Act, 1928 or the powers of a court under the Usurious Loans Act, 1918 except to the extent specified in section 16.

23. The Government may, by notification in the official Gazette, apply all or any of the provisions of chapters III and IV to the loan transactions of creditors other than money lenders.

STATEMENT OF OBJECTS AND REASONS.

The question of introducing legislation for the control of money lending business in order to protect ignorant debtors against fraud and extortion has been under consideration of Government for some time past. The desirability of ~~having~~ legislation in the matter was also being urged in the Representative Assembly and Legislative Council. Some leading non-official gentlemen were consulted by Government in 1933 with a view to decide upon the desirability and the form of the legislation. They were generally in favour of legislation and their suggestions have been adopted to the extent they were found suitable. The Royal Commission on Agriculture, the Royal Commission on Labour and the Banking Enquiry Committee have all recommended legislation for control of money lending business. Certain of the British Indian Provinces have already taken or are taking action in the matter.

The existing Acts affecting money lending, viz., Usurious Loans Act and the Agriculturists Relief Act are not sufficient to give relief to the debtors. They touch only certain portions of the law relating to money lending and the latter affects only a certain class of debtors viz., Agriculturists. The present Bill will apply to money lending in general. The business of money lending, as carried on by certain classes of money lenders, is defective. Regular accounts are not ordinarily kept and receipts are not some times given for money paid by the debtors. The interest charged is also high. It is therefore proposed to introduce a bill for the control of the business of money lending in the interest of many ignorant and illiterate debtors. A reasonable maximum rate of interest that may be allowed by courts is fixed. Provision is made for the safe conduct of the business by requiring proper maintenance of accounts and giving opportunities to the debtors to ascertain periodically

the state of the accounts. Provision is also made for registration and licensing of money lenders. At the same time care is taken to see that the Bill does not unnecessarily harass money lenders and restrict facilities for credit.

Penalties for noncompliance of the provisions of the Bill are not hard but reasonable and just sufficient to meet the requirements of the case.

Objects and Reasons!

STATEMENT OF GENERAL PRINCIPLES OF THE MONEY LENDERS BILL.

The question of introducing legislation for the control of money lending business in order to protect ignorant debtors against fraud and extortion has been under consideration of Government for some time past. The desirability of having legislation in the mat was also being urged both in the Representative Assembly and Legislative Council. Some leading non-official gentlemen were consulted by Government in 1933 with a view to decide upon the desirability and the form of the legislation. They were generally in favour of legislation and their suggestions have been adopted to the extent they were found suitable. The Royal Commission on Agriculture, the Royal Commission on Labour and the Banking Enquiry Committee have all recommended legislation for control of money lending business. Certain of the British Indian Provinces have already taken or are taking action in the matter.

The existing Acts affecting money lending, Viz., Usurious Loans Act and Agriculturists Relief Act are not sufficient to give relief to the debtors. They touch only certain portions of the law relating to money lending and the latter affects only a certain class of debtors Viz., Agriculturists. The present Bill will ~~only~~ apply to money lending in general. The business of money lending, as carried on by certain classes of money lenders, is defective. Regular accounts are not ordinarily kept and receipts are not some times given for money paid by the debtors. The interest charged is also high. It is therefore proposed to introduce a bill for the control of the business of money lending in the interest of many ignorant and illerate debtors. A reasonable maximum rate of interest that may be allowed by courts will be fixed. Provision is made for the safe conduct of the business by requiring proper maintenance of accounts and giving opportunities to the debtors to acertain periodically the state of the accounts. Provision is also made for registration and licensing of money lenders. At the same time care is taken to see that the Bill does not unnecessarily harass money lenders

and restrict facilities for credit.

Penalties for noncompliance of the provisions of the Bill are not hard but reasonable and just sufficient to meet the requirements of the case.

NOTIFICATION.

No. 1030—*L. C., Bangalore, dated the* 10*th December* 1938.

Under Rule 8 of the rules for the conduct of business of the Mysore Legislative Council, the accompanying Money Lenders' Bill is published for general information with the statement of objects and reasons.

By Order,

A. SUNDARARAJA RAO,

Secretary,

Mysore Legislative Council.

THE MONEY LENDERS' BILL.

Whereas it is expedient to regulate and control the transactions of money lending; it is hereby enacted as follows:—

CHAPTER I.

Preliminary.

Short Title. 1. (1) This Act may be called the Mysore Money Lenders' Act, 193 .

Application. (2) The Government may, by notification in the official Gazette, apply all or any of the provisions of this Act to any local area or to any class of money lenders from such date as may be specified in the notification and may also by a like notification exclude from the operation of this Act any local area or exempt any money lender or class of money lenders or any class of loans from the operation of all or any of the provisions of this Act.

Definitions. 2. In this Act unless there is anything repugnant in the subject or context:—

(1) "Court" includes a Court acting in the exercise of insolvency jurisdiction;

(2) "Interest" includes any sum by whatsoever name called in excess of the principal paid or payable to a money lender in consideration of or otherwise in respect of a loan, but does not include any sum lawfully charged in accordance with the provisions of this Act or any other law for the time being in force by a money lender for or on account of costs, charges or expenses;

(3) "Loan" means an advance whether of money or in kind on interest made by a money lender and includes any transaction which in the opinion of the court is in substance a loan;

(4) "Money Lender" means an individual or an undivided Hindu family or an unincorporated body of individuals or body corporate incorporated under any law in Mysore or outside Mysore, or a body which stands to any such body corporate in the relation of a subsidiary body and includes assignees and the legal representative of the money lender, who or which—

(i) carries on the business of money lending in the State; or

(ii) has his or its principal place of such business in the State;

and includes a pawn-broker;

(5) "Money lending business" or "Business of money lending" means the business of advancing loans either solely or in common with any business;

(6) "Pawn-broker" means a person who carries on the business of taking goods and chattels in pawn for a loan;

(7) "Pawnor" means a person delivering an article for pawn to a pawn-broker;

(8) "Prescribed" means prescribed by rules made under this Act;

(9) "Principal" means in relation to a loan the amount actually lent to the debtor;

(10) "Register" means a register of money lenders maintained under section 4; and

(11) "Registrar" means the registrar of money lenders appointed under section 3.

(12) "Secured loan" means a loan for which the money lender holds a mortgage, charge or lein on the property of the debtor or any part thereof as a security for that loan;

(13) "Unsecured loan" means any loan other than a secured loan.

CHAPTER II.

Registration and Licensing of Money Lenders.

Appointment of registrars.

3. The Government may appoint registrars of money lenders for the purpose of this Act and may define

the local areas within which each registrar shall exercise his powers and perform his duties.

Register of money lenders.

4. The registrar shall maintain a register of money lenders in such form as may be prescribed.

Application for registration.

5. Every money lender shall apply in writing to the registrar for the area in which the principal place of business of such money lender is situated or in which he intends to carry on the business of money lending, to be registered as a money lender. The application shall contain such particulars as may be prescribed. On receipt of such application the registrar shall register the name of the applicant in the register unless disqualified under section 19. Any such person ceasing to carry on the business of money lending may, on application to the said authority, get his name struck off from the register.

Duration of registration

6. A registration of a money lender shall be valid for three years from the date of registration but may be renewed from time to time. If renewed it shall have effect for three years from the date of the renewal.

Licence.

7. Every money lender whose name has been registered and to whom this section is made applicable shall annually take out a licence from the registrar on payment of the prescribed fee in such form and subject to such conditions as may be prescribed for carrying on the business of money lending.

Licence to be annual.

8. A licence granted under section 7, shall, unless sooner cancelled, be in force for one year from the date on which it is granted.

CHAPTER III.

Regulation of Accounts.

Duty to keep accounts.

9. Every money lender shall in respect of every loan advanced by him after the commencement of this Act and every transaction made by him after the commencement of this Act relating to any loan advanced by him before the commencement of this Act, regularly record and maintain or cause to be recorded and maintained an account in such form, language, script and numerals as the Government may prescribe.

Receipt to be given.

10. Every money lender shall, at the time of payment, give to the debtor or his agent for the sum paid by him or on his behalf, a receipt duly signed and if necessary stamped.

Furnishing statement of account.

11. (1) Every money lender shall, on demand made in writing by the debtor at any time during the period when the loan or any part thereof has not been repaid, on payment of the prescribed fee, furnish to the debtor or if he so requires to any person mentioned by him in that behalf, a statement of account in the prescribed form and showing the amount which remains outstanding on account of the principal and of interest:

Provided that where a money lender has complied with the demand the debtor shall not make a further demand for a statement of account in respect of the same loan within a period of six months from the date of such compliance.

(2) A person to whom a statement of account has been furnished under sub-section (1) shall not be bound to acknowledge or deny its correctness and his failure to object to the correctness of the account shall not by itself be deemed to be an admission of the correctness of such account.

Duty of pawn-brokers to keep accounts.

12. (1) Every pawn-broker shall regularly record and maintain an account in which in addition to the particulars contained in the form prescribed under section 9, the following particulars are recorded, namely:—

(*a*) a full and detailed description of the article or of each of the articles taken in pawn,

(*b*) the name of the pawnor and where the pawnor is not the owner of the article or of any of the articles pawned, the name and address of the owner thereof.

(2) A true copy of the entries in such account shall be delivered by the pawn-broker to the pawnor at the time of the pawn on tender of the prescribed fee.

Inspection by Registrar

13. (1) The registrar may inspect or cause to be inspected by any officer subordinate to him the accounts required to be maintained by a money lender under this Act.

(2) The money lender shall be bound to produce all books of account for inspection.

(3) If from such an inspection it appears that such money lender has committed any offence under this Act, the registrar may cause proceedings to be instituted against him in the court having jurisdiction.

CHAPTER IV

Provisions relating to suits in respect of loans.

The maximum rates of interest to be decreed.

14. Notwithstanding anything contained in any law for the time being in force, no court shall in any suit brought in respect of a loan advanced after the commencement of this Act, pass a decree for interest at rates exceeding 9 per centum per annum in the case of a secured loan and 12 per centum per annum in the case of an unsecured loan.

Maximum rate of compound interest.

15. No money lender shall recover by suit interest of any kind at a rate exceeding 6 per centum per annum in respect of any loan made after the commencement of this Act under a contract which provides for the payment of compound interest.

What is excessive interest under Usurious Loans Act.

16. Where the interest charged is in excess of the rates prescribed as maximum in sections 14 and 15, the court shall presume for the purpose of section 3 of the Usurious Loans Act that the interest charged is excessive and that the transaction was substantially unfair.

Arrears of interest not to exceed principal.

17. No court shall, in respect of a loan advanced before or after the commencement of this Act, decree on account of arrears of interest, a sum greater than the principal of the original loan.

Penalty for non-compliance with section 9 or section 12.

18. Notwithstanding anything contained in any enactment for the time being in force, (*a*) if in any suit or proceeding relating to a loan the court finds that the provisions of section 9 or section 12 have not been complied with by the money lender it may, if the plaintiff's claim is established, in whole or in part, disallow the whole or any portion of the interest found due, as may seem reasonable to it in the circumstances of the case and may disallow costs;

(*b*) if the money lender to whom a demand has been made under section 11 fails without reasonable excuse to comply therewith within one month after the demand has been made, the court shall disallow interest for the period of default.

CHAPTER V.

Penalties.

Court's power to suspend or cancel licence.

19. (1) Where in any suit brought in respect of a loan by a money lender, the court is of opinion that the

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(i) the form of the register mentioned in section 4;

(ii) the form of the application mentioned in section 5 and the particulars to be contained therein;

(iii) the form and conditions of the licence mentioned in section 7, the fee therefor and the manner of payment of the fees;

(iv) the form, language, script and numerals to be used in the accounts required to be kept under section 9;

(v) the form of the statement of account to be furnished under section 11 and the details to be included therein and the fee to be paid for such statement; and

(vi) the fee to be paid for a copy of the entries in a pawn-broker's account to be furnished under section 12.

22. Nothing contained in this Act shall affect the provisions of the Mysore Agriculturists Relief Act, 1928 or the powers of a court under the Usurious Loans Act, 1923, except to the extent specified in section 16.

23. The Government may, by notification in the official Gazette, apply all or any of the provisions of Chapters III and IV to the loan transactions of creditors other than money lenders.

Statement of objects and reasons.

The question of introducing legislation for the control of money lending business in order to protect ignorant debtors against fraud and extortion has been under consideration of Government for some time past. The desirability of legislation in the matter was also being urged in the Representative Assembly and Legislative Council. Some leading non-official gentlemen were consulted by Government in 1933 with a view to decide upon the desirability and the form of the legislation. They were generally in favour of legislation and their suggestions have been adopted to the extent they were found suitable. The Royal Commission on Agriculture, the Royal Commission on Labour and the Banking Enquiry Committee

have all recommended legislation for control of money lending business. Certain of the British Indian Provinces have already taken or are taking action in the matter.

The existing Acts affecting money lending, *viz.*, the Usurious Loans Act and the Agriculturists Relief Act are not sufficient to give relief to the debtors. They touch on certain portions of the law relating to money lending and the latter affects only a certain class of debtors *viz.*, agriculturists. The present Bill will apply to money lending in general. The business of money lending as carried on by certain classes of money lenders, is defective. Regular accounts are not ordinarily kept and receipts are not some times given for money paid by the debtors. The interest charged is also high. It is therefore proposed to introduce a bill for the control of the business of money lending in the interest of many ignorant and illiterate debtors. A reasonable maximum rate of interest that may be allowed by courts is fixed. Provision is made for the safe conduct of the business by requiring proper maintenance of accounts and giving opportunities to the debtors to ascertain periodically the state of the accounts. Provision is also made for registration and licensing of money lenders. At the same time care is taken to see that the Bill does not unnecessarily harass money lenders and restrict facilities for credit.

Penalties for non-compliance of the provisions of the Bill are not hard but reasonable and just sufficient to meet the requirements of the case.

Printed by the Superintendent at the Government Press, Bangalore.

NOTIFICATION.

No. 1030—*L. C., Bangalore, dated the* 10*th December* 1938.

Under Rule 8 of the rules for the conduct of business of the Mysore Legislative Council, the accompanying Money Lenders' Bill is published for general information with the statement of objects and reasons.

By Or

A. SUNDARARAJA RAO,

Secretary,

Mysore Legislative Council.

THE MONEY LENDERS' BILL.

Whereas it is expedient to regulate and control the transactions of money lending; it is hereby enacted as follows:—

CHAPTER I.

Preliminary.

Short Title. (1) This Act may be called the Mysore Money Lenders' Act, 193 .

Application. (2) The Government may, by notification in the official Gazette, apply all or any of the provisions of this Act to any local area or to any class of money lenders from such date as may be specified in the notification and may also by a like notification exclude from the operation of this Act any local area or exempt any money lender or class of money lenders or any class of loans from the operation of all or any of the provisions of this Act.

Definitions. 2.—In this Act unless there is anything repugnant in the subject or context:—

(1) "Court" includes a Court acting in the exercise of insolvency jurisdiction;

(2) "Interest" includes any sum by whatsoever name called in excess of the principal paid or payable to a money lender in consideration of or otherwise in respect of a loan, but does not include any sum lawfully charged in accordance with the provisions of this Act or any other law for the time being in force by a money lender for or on account of costs, charges or expenses;

(3) "Loan" means an advance whether of money or in kind on interest made by a money-lender and includes any transaction which in the opinion of the court is in substance a loan;

(4) "Money Lender" means an individual or an undivided Hindu family or an unincorporated body of individuals or body corporate incorporated under any law in Mysore or outside Mysore, or a body which stands to any such body corporate in the relation of a subsidiary body and includes assignees and the legal representative of the money lender, who or which—

(i) carries on the business of money lending in the State; or

(ii) has his or its principal place of such business in the State;

and includes a pawn-broker;

(5) "Money lending business" or "Business of money lending" means the business of advancing loans either solely or in common with any business;

(6) "Pawn-broker" means a person who carries on the business of taking goods and chattels in pawn for a loan;

(7) "Pawnor" means a person delivering an article for pawn to a pawn-broker;

(8) "Prescribed" means prescribed by rules made under this Act;

(9) "Principal" means in relation to a loan the amount actually lent to the debtor;

(10) "Register" means a register of money lenders maintained under section 4; and

(11) "Registrar" means the registrar of money lenders appointed under section 3.

(12) "Secured loan" means a loan for which the money lender holds a mortgage, charge or lien on the property of the debtor or any part thereof as a security for that loan;

(13) "Unsecured loan" means any loan other than a secured loan.

CHAPTER II.

Registration and Licensing of Money Lenders.

Appointment of Registrars

3. The Government may appoint registrars of money lenders for the purpose of this Act and may define

the local areas within which each registrar shall exercise his powers and perform his duties.

Register of money lenders.

4. The registrar shall maintain a register of money lenders in such form as may be prescribed.

Application for registration.

5. Every money lender shall apply in writing to the registrar for the area in which the principal place of business of such money lender is situated or in which he intends to carry on the business of money lending, to be registered as a money lender. The application shall contain such particulars as may be prescribed. On receipt of such application the registrar shall register the name of the applicant in the register unless disqualified under section 19. Any such person ceasing to carry on the business of money lending may, on application to the said authority, get his name struck off from the register.

Duration of registration

6. A registration of a money lender shall be valid for three years from the date of registration but may be renewed from time to time. If renewed it shall have effect for three years from the date of the renewal.

Licence.

7. Every money lender whose name has been registered and to whom this section is made applicable shall annually take out a licence from the registrar on payment of the prescribed fee in such form and subject to such conditions as may be prescribed for carrying on the business of money lending.

Licence to be annual.

8. A licence granted under section 7, shall, unless sooner cancelled, be in force for one year from the date on which it is granted.

CHAPTER III.

Regulation of Accounts.

Duty to keep accounts.

9. Every money lender shall in respect of every loan advanced by him after the commencement of this Act and every transaction made by him after the commencement of this Act relating to any loan advanced by him before the commencement of this Act, regularly record and maintain or cause to be recorded and maintained an account in such form, language, script and numerals as the Government may prescribe.

Receipt to be given.

10. Every money lender shall, at the time of payment, give to the debtor or his agent for the sum paid by him or on his behalf, a receipt duly signed and if necessary stamped.

Furnishing statement of account.

11. (1) Every money lender shall, on demand made in writing by the debtor at any time during the period when the loan or any part thereof has not been repaid, on payment of the prescribed fee, furnish to the debtor or if he so requires to any person mentioned by him in that behalf, a statement of account in the prescribed form and showing the amount which remains outstanding on account of the principal and of interest :

Provided that where a money lender has complied with the demand the debtor shall not make a further demand for a statement of account in respect of the same loan within a period of six months from the date of such compliance.

(2) A person to whom a statement of account has been furnished under sub-section (1) shall not be bound to acknowledge or deny its correctness and his failure to object to the correctness of the account shall not by itself be deemed to be an admission of the correctness of such account.

Duty of pawn-brokers to keep accounts.

12. (1) Every pawn-broker shall regularly record and maintain an account in which in addition to the particulars contained in the form prescribed under section 9, the following particulars are recorded, namely :—

(*a*) a full and detailed description of the article or of each of the articles taken in pawn,

(*b*) the name of the pawnor and where the pawnor is not the owner of the article or of any of the articles pawned, the name and address of the owner thereof.

(2) A true copy of the entries in such account shall be delivered by the pawn-broker to the pawnor at the time of the pawn on tender of the prescribed fee.

Inspection by Registrar

13. (1) The registrar may inspect or cause to be inspected by any officer subordinate to him the accounts required to be maintained by a money lender under this Act.

(2) The money lender shall be bound to produce all books of account for inspection.

(3) If from such an inspection it appears that such money lender has committed any offence under this Act, the registrar may cause proceedings to be instituted against him in the court having jurisdiction.

CHAPTER IV.

Provisions relating to suits in respect of loans.

The maximum rates of interest to be decreed.

14. Notwithstanding anything contained in any law for the time being in force, no court shall in any suit brought in respect of a loan advanced after the commencement of this Act, pass a decree for interest at rates exceeding 9 per centum per annum in the case of a secured loan and 12 per centum per annum in the case of an unsecured loan.

Maximum rate of compound interest.

15. No money lender shall recover by suit interest of any kind at a rate exceeding 6 per centum per annum in respect of any loan made after the commencement of this Act under a contract which provides for the payment of compound interest.

What is excessive interest under Usurious Loans Act.

16. Where the interest charged is in excess of the rates prescribed as maximum in sections 14 and 15, the court shall presume for the purpose of section 3 of the Usurious Loans Act that the interest charged is excessive and that the transaction was substantially unfair.

Arrears of interest not to exceed principal.

17. No court shall, in respect of a loan advanced before or after the commencement of this Act, decree on account of arrears of interest, a sum greater than the principal of the original loan.

Penalty for non-compliance with section 9 or section 12.

18. Notwithstanding anything contained in any enactment for the time being in force, (*a*) if in any suit or proceeding relating to a loan the court finds that the provisions of section 9 or section 12 have not been complied with by the money lender it may, if the plaintiff's claim is established, in whole or in part, disallow the whole or any portion of the interest found due, as may seem reasonable to it in the circumstances of the case and may disallow costs;

(*b*) if the money lender to whom a demand has been made under section 11 fails without reasonable excuse to comply therewith within one month after the demand has been made, the court shall disallow interest for the period of default.

CHAPTER V.

Penalties.

Court's power to suspend or cancel licence.

19. (1) Where in any suit brought in respect of a loan by a money lender, the court is of opinion that the

money lender has been guilty of fraud or of any contravention of the provisions of this Act or of any rule made thereunder or is otherwise unfit to carry on the business of money lending, the court may order that the licence held by such money lender or his registration be suspended for such time as the court may think fit or cancelled and may also declare such money lender disqualified from obtaining a licence or being registered under this Act either permanently or for such period as it thinks fit.

(2) The court shall cause the particulars of any order made under this section to be endorsed on the licence held by the money lender against whom such order is made and shall cause copy of its order to be sent to the registrar by whom the licence was granted or the registration was made for the purpose of entering such particulars in the Register.

(3) Every holder of a licence shall, on being called upon by the court to do so, produce the licence within such time as may be directed by the court.

(4) Any person whose licence or registration has been cancelled or suspended in accordance with the provisions of this section shall, during the period for which such order of cancellation has effect or during the period of suspension, as the case may be, be disqualified from being registered or obtaining a licence.

Penalty for contravention of provisions.

20. Whoever makes default in complying with or acts in contravention of any provision of this Act shall, if no specific penalty has been provided in this Act, be punishable for the first offence with fine which may extend to Rs. 200 and for a second or subsequent offence with imprisonment of either description for a term not exceeding one month or with fine which may extend to Rs. 500 or with both and shall also be liable to have his registration and licence cancelled.

CHAPTER VI.

Miscellaneous.

Power to make rules.

21. (1) The Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(i) the form of the register mentioned in section 4;

(ii) the form of the application mentioned in section 5 and the particulars to be contained therein;

(iii) the form and conditions of the licence mentioned in section 7, the fee therefor and the manner of payment of the fees;

(iv) the form, language, script and numerals to be used in the accounts required to be kept under section 9;

(v) the form of the statement of account to be furnished under section 11 and the details to be included therein and the fee to be paid for such statement; and

(vi) the fee to be paid for a copy of the entries in pawn-broker's account to be furnished under section 12.

22. Nothing contained in this Act shall affect the provisions of the Mysore Agriculturists Relief Act, 1928 or the powers of a court under the Usurious Loans Act, 1923, except to the extent specified in section 16.

23. The Government may, by notification in the official Gazette, apply all or any of the provisions of Chapters III and IV to the loan transactions of creditors other than money lenders.

Statement of objects and reasons.

The question of introducing legislation for the control of money lending business in order to protect ignorant debtors against fraud and extortion has been under consideration of Government for some time past. The desirability of legislation in the matter was also being urged in the Representative Assembly and Legislative Council. Some leading non-official gentlemen were consulted by Government in 1933 with a view to decide upon the desirability and the form of the legislation. They were generally in favour of legislation and their suggestions have been adopted to the extent they were found suitable. The Royal Commission on Agriculture, the Royal Commission on Labour and the Banking Enquiry Committee

NOTIFICATION.

No. 1030—*L. C., Bangalore, dated the 10th December* 1938.

Under Rule 8 of the rules for the conduct of business of the Mysore Legislative Council, the accompanying Money Lenders' Bill is published for general information with the statement of objects and reasons.

By Order,

A. SUNDARARAJA RAO,

Secretary,

Mysore Legislative Council.

THE MONEY LENDERS' BILL.

Whereas it is expedient to regulate and control the transactions of money lending; it is hereby enacted as follows:—

CHAPTER I.

Preliminary.

1. (1) This Act may be called the Mysore Money Lenders' Act, 193 . Short Title.

(2) The Government may, by notification in the official Gazette, apply all or any of the provisions of this Act to any local area or to any class of money lenders from such date as may be specified in the notification and may also by a like notification exclude from the operation of this Act any local area or exempt any money lender or class of money lenders or any class of loans from the operation of all or any of the provisions of this Act. Application.

2. In this Act unless there is anything repugnant in the subject or context:— Definitions.

(1) "Court" includes a Court acting in the exercise of insolvency jurisdiction;

(2) "Interest" includes any sum by whatsoever name called in excess of the principal paid or payable to a money lender in consideration of or otherwise in respect of a loan, but does not include any sum lawfully charged in accordance with the provisions of this Act or any other law for the time being in force by a money lender for or on account of costs, charges or expenses;

(3) "Loan" means an advance whether of money or in kind on interest made by a money lender and includes any transaction which in the opinion of the court is in substance a loan;

(4) "Money Lender" means an individual or an undivided Hindu family or an unincorporated body of individuals or body corporate incorporated under any law in Mysore or outside Mysore, or a body which stands to any such body corporate in the relation of a subsidiary body and includes assignees and the legal representative of the money lender, who or which—

(i) carries on the business of money lending in the State; or

(ii) has his or its principal place of such business in the State;

and includes a pawn-broker;

(5) "Money lending business" or "Business of money lending" means the business of advancing loans either solely or in common with any business;

(6) "Pawn-broker" means a person who carries on the business of taking goods and chattels in pawn for a loan;

(7) "Pawnor" means a person delivering an article for pawn to a pawn-broker;

(8) "Prescribed" means prescribed by rules made under this Act;

(9) "Principal" means in relation to a loan the amount actually lent to the debtor;

(10) "Register" means a register of money lenders maintained under section 4; and

(11) "Registrar" means the registrar of money lenders appointed under section 3.

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CHAPTER II.

Registration and Licensing of Money Lenders.

Appointment of Registrars.

3. The Government may appoint registrars of money lenders for the purpose of this Act and may define

the local areas within which each registrar shall exercise his powers and perform his duties.

Register of money lenders.

4. The registrar shall maintain a register of money lenders in such form as may be prescribed.

Application for registration.

5. Every money lender shall apply in writing to the registrar for the area in which the principal place of business of such money lender is situated or in which he intends to carry on the business of money lending, to be registered as a money lender. The application shall contain such particulars as may be prescribed. On receipt of such application the registrar shall register the name of the applicant in the register unless disqualified under section 19. Any such person ceasing to carry on the business of money lending may, on application to the said authority, get his name struck off from the register.

Duration of registration

6. A registration of a money lender shall be valid for three years from the date of registration but may be renewed from time to time. If renewed it shall have effect for three years from the date of the renewal.

Licence.

7. Every money lender whose name has been registered and to whom this section is made applicable shall annually take out a licence from the registrar on payment of the prescribed fee in such form and subject to such conditions as may be prescribed for carrying on the business of money lending.

Licence to be annual.

8. A licence granted under section 7, shall, unless sooner cancelled, be in force for one year from the date on which it is granted.

CHAPTER III.

Regulation of Accounts.

Duty to keep accounts.

9. Every money lender shall in respect of every loan advanced by him after the commencement of this Act and every transaction made by him after the commencement of this Act relating to any loan advanced by him before the commencement of this Act, regularly record and maintain or cause to be recorded and maintained an account in such form, language, script and numerals as the Government may prescribe.

Receipt to be given.

10. Every money lender shall, at the time of payment, give to the debtor or his agent for the sum paid by him or on his behalf, a receipt duly signed and if necessary stamped.

Furnishing statement of account.

1. (1) Every money lender shall, on demand made in writing by the debtor at any time during the period when the loan or any part thereof has not been repaid, on payment of the prescribed fee, furnish to the debtor or if he so requires to any person mentioned by him in that behalf, a statement of account in the prescribed form and showing the amount which remains outstanding on account of the principal and of interest :

Provided that where a money lender has complied with the demand the debtor shall not make a further demand for a statement of account in respect of the same loan within a period of six months from the date of such compliance.

(2) A person to whom a statement of account has been furnished under sub-section (1) shall not be bound to acknowledge or deny its correctness and his failure to object to the correctness of the account shall not by itself be deemed to be an admission of the correctness of such account.

Duty of pawn-brokers to keep accounts.

12. (1) Every pawn-broker shall regularly record and maintain an account in which in addition to the particulars contained in the form prescribed under section 9, the following particulars are recorded, namely :—

(*a*) a full and detailed description of the article or of each of the articles taken in pawn,

(*b*) the name of the pawnor and where the pawnor is not the owner of the article or of any of the articles pawned, the name and address of the owner thereof.

(2) A true copy of the entries in such account shall be delivered by the pawn-broker to the pawnor at the time of the pawn on tender of the prescribed fee.

Inspection by Registrar

13. (1) The registrar may inspect or cause to be inspected by any officer subordinate to him the accounts required to be maintained by a money lender under this Act.

(2) The money lender shall be bound to produce all books of account for inspection.

(3) If from such an inspection it appears that such money lender has committed any offence under this Act, the registrar may cause proceedings to be instituted against him in the court having jurisdiction.

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Provisions relating to suits in respect of loans.

The maximum rates of interest to be decreed.

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Maximum rate of compound interest.

15. No money lender shall recover by suit interest of any kind at a rate exceeding 6 per centum per annum in respect of any loan made after the commencement of this Act under a contract which provides for the payment of compound interest.

What is excessive interest under Usurious Loans Act.

16. Where the interest charged is in excess of the rates prescribed as maximum in sections 14 and 15, the court shall presume for the purpose of section 3 of the Usurious Loans Act that the interest charged is excessive and that the transaction was substantially unfair.

Arrears of interest not to exceed principal.

17. No court shall, in respect of a loan advanced before or after the commencement of this Act, decree on account of arrears of interest, a sum greater than the principal of the original loan.

Penalty for non-compliance with section 9 or section 12.

18. Notwithstanding anything contained in any enactment for the time being in force, (*a*) if in any suit or proceeding relating to a loan the court finds that the provisions of section 9 or section 12 have not been complied with by the money lender it may, if the plaintiff's claim is established, in whole or in part, disallow the whole or any portion of the interest found due, as may seem reasonable to it in the circumstances of the case and may disallow costs;

(*b*) if the money lender to whom a demand has been made under section 11 fails without reasonable excuse to comply therewith within one month after the demand has been made, the court shall disallow interest for the period of default.

CHAPTER V.

Penalties.

Court's power to suspend or cancel licence.

19. (1) Where in any suit brought in respect of a loan by a money lender, the court is of opinion that the

money lender has been guilty of fraud or of any contravention of the provisions of this Act or of any rule made thereunder or is otherwise unfit to carry on the business of money lending, the court may order that the licence held by such money lender or his registration be suspended for such time as the court may think fit or cancelled and may also declare such money lender disqualified from obtaining a licence or being registered under this Act either permanently or for such period as it thinks fit.

(2) The court shall cause the particulars of any order made under this section to be endorsed on the licence held by the money lender against whom such order is made and shall cause copy of its order to be sent to the registrar by whom the licence was granted or the registration was made for the purpose of entering such particulars in the Register.

(3) Every holder of a licence shall, on being called upon by the court to do so, produce the licence within such time as may be directed by the court.

(4) Any person whose licence or registration has been cancelled or suspended in accordance with the provisions of this section shall, during the period for which such order of cancellation has effect or during the period of suspension, as the case may be, be disqualified from being registered or obtaining a licence.

Penalty for contravention of provisions.

20. Whoever makes default in complying with or acts in contravention of any provision of this Act shall, if no specific penalty has been provided in this Act, be punishable for the first offence with fine which may extend to Rs. 200 and for a second or subsequent offence with imprisonment of either description for a term not exceeding one month or with fine which may extend to Rs. 500 or with both and shall also be liable to have his registration and licence cancelled.

CHAPTER VI.

Miscellaneous.

Power to make rules.

21. (1) The Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(i) the form of the register mentioned in section 4;

(ii) the form of the application mentioned in section 5 and the particulars to be contained therein;

(iii) the form and conditions of the licence mentioned in section 7, the fee therefor and the manner of payment of the fees;

(iv) the form, language, script and numerals to be used in the accounts required to be kept under section 9;

(v) the form of the statement of account to be furnished under section 11 and the details to be included therein and the fee to be paid for such statement; and

(vi) the fee to be paid for a copy of the entries in a pawn-broker's account to be furnished under section 12.

22. Nothing contained in this Act shall affect the provisions of the Mysore Agriculturists Relief Act, 1928 or the powers of a court under the Usurious Loans Act, 1923, except to the extent specified in section 16.

23. The Government may, by notification in the official Gazette, apply all or any of the provisions of Chapters III and IV to the loan transactions of creditors other than money lenders.

Statement of objects and reasons.

The question of introducing legislation for the control of money lending business in order to protect ignorant debtors against fraud and extortion has been under consideration of Government for some time past. The desirability of legislation in the matter was also being urged in the Representative Assembly and Legislative Council. Some leading non-official gentlemen were consulted by Government in 1933 with a view to decide upon the desirability and the form of the legislation. They were generally in favour of legislation and their suggestions have been adopted to the extent they were found suitable. The Royal Commission on Agriculture, the Royal Commission on Labour and the Banking Enquiry Committee

have all recommended legislation for control of money lending business. Certain of the British Indian Provinces have already taken or are taking action in the matter.

The existing Acts affecting money lending, *viz.* the Usurious Loans Act and the Agriculturists Relief Act are not sufficient to give relief to the debtors. They touch on certain portions of the law relating to money lending and the latter affects only a certain class of debtors *viz.*, agriculturists. The present Bill will apply to money lending in general. The business of money lending as carried on by certain classes of money lenders, is defective Regular accounts are not ordinarily kept and receipts are not some times given for money paid by the debtors. The interest charged is also high. It is therefore proposed to introduce a bill for the control of the business of money lending in the interest of many ignorant and illiterate debtors. A reasonable maximum rate of interest that may be allowed by courts is fixed. Provision is made for the safe conduct of the business by requiring proper maintenance of accounts and giving opportunities to the debtors to ascertain periodically the state of the accounts. Provision is also made for registration and licensing of money lenders. At the same time care is taken to see that the Bill does not unnecessarily harass money lenders and restrict facilities for credit.

Penalties for non-compliance of the provisions of the Bill are not hard but reasonable and just sufficient to meet the requirements of the case.

Printed by the Superintendent at the Government Press, Bangalore.

Que 15 para 71
Rules

Select Committee on the Money-Lenders Bill..

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1. Mr. Abdul Wajid.
2. Rajaseva prasakta B.T.Kesavaiengar.
3. Mr.Mirle N.Lakshminaranappa
4. Mr. M.Abdul Hukh.
5. Mr. M.S.Ramachendra Rao
6. Rajasabhabhushana Diwan Bahadur K.R.Srinivasiengar. — FIRST MEMBER OF COUNCIL.(Chairman)
7. Khan Bahadur Mahomed Abbas Khan.
8. Mr.Henry H.White.
9. Mr.B.S.Puttaswamy.
10. Mr.B.K.Puttananjappa
11. Mr.R.Channigaramiah.
12. Mr. P.Subbarama Chetty
13. Mr.G.Girimaji Rao
14. Mr.Belur Srinivasa Iyengar
15. Mr.T.Ramachandra.

March 1939 : All except 10, 12 and 15 Present.
Mr. Subbarama Chetty had sent a letter expressing inability to be Present.

21st March 1939 : All except 10, and 12 Present.

8th April 1939 : All except 10 were Present

Re. to para 92

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Bill	Sindh-Sikarpur Bankers Association.	Multani Merchants of Bangalore and Mysore.	Moneylenders of B and the Other Districts
Clause 1 (1) Short Title		Title should be changed into "Regulation of Moneylending Act."	
Clause 1 (2) Application.	The defects which the Bill seeks to remedy are absent from our system. We should therefore be exempted. The definition of "Moneylender" itself should exclude us.	We should be exempted from the operation of this Act.	Transactions belo Rs 50/- should be exempted from this Ac
Chapter II. Registration and Licensing.	These provisions are neither useful nor practicable. The Central Banking Enquiry Committee, Madras, Punjab have all rejected such Proposals. Registration should be omitted. Licensing is derogatory to our self respect. Clauses 5 & 7 are not clear as to particulars required for applications.	The form of application for registration is not Published with Bill. Other parts of India have given up such provisions after discussion. There is no object gained or advantage to any body. If Registration is Considered necessary should be made for life. Licensing: form and terms are left to the rules and so is very vague. It should be omitted.	These provisions a derogatory to our self respect. Pun and Madras do have these provisi
9 Duty to Keep accounts.	Compulsion re language is a Practical impossibility. It will be disadvantageous to allow others to maintain our accounts in a language not known to us.	This will put us at the mercy of a clerk. There is also no Common language in Mysore. Accounts should be allowed to be kept in any language and statements of accounts to borrowers may be directed to be given in English or Kannada. This will be enough to safeguard the borrowers interest.	Provision regarding language should be with involve depend on the honesty of the l licence should not be where the moneylende neither responsible fo has any knowledge, fraud of his clerk.
Clause 10 Receipt to be given.	This is severe and unconscionable will give a handle to the unscrupulous borrower to deny the grant of a receipt and bring the creditor to trouble. Madras act has a less severe penalty. General law like the Stamp Act Provides adequately for this matter. No necessity for this Provision.		

See Note 9 [illegible]

Bill:	Sindh Sirkarpur Bankers Association.	Multani Merchants of Bangalore and Mysore.	Moneylenders of Banga and the other District.
Clause 11 (2)	creditor will be at a disadvantage. Should be left to the Courts to draw the Proper inferences.		

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Clause 13 Inspection by Registrar.	Bankers have to maintain Secrecy. Otherwise borrowers will resort to other bankers who evade the law. This will also lead to the manipulation of accounts & will be a source of harassment. will also lead to Corruption of the bankers subordinates.	The Provision is very wide and unnecessary. There will be no Privacy of accounts.	accounts come up before the Courts. Inspection will therefore serve no useful purpose. Corresponding Acts in other Parts do not have any such Provisions.
Clause 13(2)	This ignores realities. We usually send our books to the Headquarters as soon as it is closed. This Provision will work as a hardship.	The expression "all books of account" in clause 13(2) is wide and indefinite and is liable to abuse.	
Clause 14 maximum rates of interest.	our rates are lower than that mentioned in the Bill. But rates vary in accordance with official rate of the Reserve Bank and of the Government of India on their Treasury Bills. Govt should take power to vary the rates without recourse to the legislature and should not fix rates. *	Maximum interest fixed is too low. This should be left to the Courts. At any rate should not be less than 12% and 24%	Rates of interest are too low we trade with borrowed Capital. The rate may 12% and 15% on transactions above Rs 50/-. no should be fixed for transa below Rs 50/- [The Mysore moneylenders Ass state that the rates should left to the Courts]
Clause 19 Courts power to suspend or Cancel licence.	This is severe and will discourage moneylending and affect the economic life of the People.	no appeal is provided against the orders of Court. If the licence is cancelled will it Prevent moneylender from recovering loans already advanced?	The penal Provisions of the in chapter V are very sev there are no similar Provis in other Acts. At any rate action under the Act sh be taken unless the money has been previously warn and given an opportuni improve.
Clause 20 penalty for Contravention of Provisions.		This is too drastic. Appeals should be provided in such cases.	

This should be omitted
Interferes with the Judge's
discretion and the
Principles of the Evidence Act.

this Provision should
be expunged as it is
an inroad on the
Confidential nature of the
transactions.

...ision is unnecessary and
...ecial matters. It is
...ed novel. Upon the
...Court Cancel or suspend
...Licence the power given in the
...Rule is unnecessary.

no limit should be
imposed by Statute.

Interest should be allowed
on unsecured debts at
1 to 3 % (evidently Per
month)
For Pledges over Rs 100/- at Re 1/-
Per month
For Pledges below Rs 100/- at
Re 1-8-0 per month.

restriction on rate of
interest will work as
a hardship as we
trade with borrowed
Capital.
Interest at 8% and
13% for debts over
Rs 50/- would be an
equitable rate.

Interest should be
to 6% and 7 1/2

Such a Provision is not found
in the Madras Act. Punishment
Prescribed in the Provisions
of the Bill is sufficiently severe.
this clause should be
expunged.

a minimum Period
for which Court
must suspend a
licence should be
fixed. this should be
3 years.
of a disqualified money
lender trades in another na...
he should be made to pay
penalty up to Rs 2000/-

Punishment should be
enhanced to Rs 500/- for the
first offence and Rs 2000/- for
subsequent offences

Bill	South Kanara Bankers Association	Multani Moneylenders of Bangalore and Mysore	Moneylenders of Bangalore and the other Districts
Clause 21 Power to make rules:	Rules should be Published and objections heard.	Bill is vague and enormous power is taken under the rule making power. That terms of Registration or licensing should be left to rules is against all Principles of legislation. Objections should be heard before rules are framed.	
Miscellaneous.		Act is unnecessary. The present state of law Provides for all these matters. Time should be given to moneylenders who do not want to register themselves to wind up their business and go.	

I In addition to the above, a memorial has been received from the Marwari Merchants of the K.G.F objecting to the introduction of a moneylenders Bill The Member has noted thereon " They wanted their views to be heard at the time of Select Committee stage. (Sd) S.P.R ".

II Mr. Marulappa R.a. Member Kadur has sent two suggestions:.

(1) Interest should not exceed 3 to 5% and 6%.

(2) Landlords who advance money to tenants & Coolies for house Construction should not be required to Register themselves.

III. A petition from some Citizens of Bangalore has suggested that a max. rate of interest beyond which no claim should be allowed may be fixed.

Residents and Employees moneylenders of K.G.F. R.V.N. II. Chann
in K.G.F.

Draft Bill will restrict our
credit and it will become
impossible to borrow on
sudden Contingencies.

Pledged articles should
be allowed to be sold if
not redeemed within
three (3) years.

various suggestions have
been put forward — like
debt redemption etc —
which do not seem to be
directly on the Present B
but treat of the policy of
Govt.

6/3/39
Que. 5 para 180 notes

Brief summary of the proceedings of the Select Committee meeting on the Money Lenders' Bill.

A meeting of the Select Committee on the Money Lenders' Bill was held in the chamber of the First Member of Council, commencing at 1 p m., on Monday, 6th March 1939.

The following members were present:-

Rajamantrapravina N. Madhava Rau,
First Member of Council (Chairman).

Mr. S. Abdul Wajid.

Mr. Mirle N. Lakshminaranappa.

Rajasevaprasakta B.T. Kesavaiengar.

Mr. M. Abdul Hukh.

Mr. M.S. Ramachandra Rao.

Rajasabhabhushana Diwan Bahadur
K.R. Srinivasiengar.

Khan Bahadur Mahomed Abbas Khan.

Mr. Henry M. White.

Mr. B.S. Puttaswamy.

Mr. R. Chennigaramiah.

Mr. G. Girimaji Rao.

Mr. Belur Srinivasa Iyengar.

Absent.

Mr. B.R. Puttananjappa.
Mr. P. Subbarama Chetty
Mr. T. Ramachandra.

At the outset, Mr. BELUR SRINIVASA IYENGAR enquired whether the bankers of Bangalore City who had requested for an opportunity to explain their case in person would be invited at any time during the course of the sittings of the Committee so that the Committee might know what they had to say in the matter.

The CHAIRMAN replied that the bankers had mentioned put down in the Memorandum all that they wanted to say. So, if the House agreed, the bill in the first instance might be gone through clause by clause with a view to see what additions or alterations would be necessary in it and at the end, it might be decided whether if and when the bankers should be invited and if so when invited. If found necessary they might be invited and in the light of the views expressed by them any further alterations in the bill were considered necessary, they might be effected.

This procedure was acceptable to all the members.

As regards the title of the Bill, Mr. BELUR SRINIVASA IYENGAR said that in Madras, it began as Money Lenders'Bill, but later on for very good reasons, it was finally decided to have it as "Debtors' Protection Bill". So here also the name might be changed to Debtors' Protection Bill. The title "Debtors' Protection Act" would be more appropriate because the object of the measure was to give relief to the borrowers. He was not in favour of the title "Money Lenders' Bill."

Other members of the Committee were of the view that the present title was correct because the object was to control money-lenders and their business. There were other enactments to provide relief to the debtors such as for instance the Usurious Loans Act and the like. Though this bill aimed giving relief to the debtors the main object was to control money lenders and as such

it was appropriate to call it "Money Lenders' Bill".

Mr. K.R. SRINIVASA IYENGAR in further supporting the above view said that the present bill did not cover the entire ground of protection to debtors. It deals with that portion relating to money-lenders. So he was not particular about the change proposed by Mr. Belur Srinivasa Iyengar.

The CHAIRMAN observed that there was no reason why the member should fight shy at the expression "Money Lenders' Bill". Similar enactments in other Provinces were called the Money Lenders' Act. As the general opinion of the House was in favour of the present title, there was no need to alter the same.

Mr. BELUR SRINIVASA IYENGAR however did not think so.

Short Title. No discussion.

Application. Mr. K.R. SRINIVASA IYENGAR was not in favour of individual money lenders being exempted from the operation of this Act. He thought that this was not the object of the Government and that therefore it was necessary to make the point clear in the bill.

Mr. B.S. PUTTASWAMI enquired whether there was any need for a provision for exemptions at all.

The CHAIRMAN replied that it was necessary to provide for exemptions for certain types of money-lenders who deserved to be exempted.

Mr. MAHOMED ABBAS KHAN said that of

all the sections of the bill, this section was the most important. He felt that if in one particular place, one class of money-lenders were brought under the scope of this bill and the others exempted, it would be open for the latter to charge any rate of interest they liked. Thus they would have an advantage over others.

The CHAIRMAN replied that there was a separate chapter which deals with interest (Chapter IV).

Mr. B.S. PUTTASWAMI felt a doubt whether in respect of people/or institutions who were exempted from the operation of this clause, clause 14 of the bill could be made applicable. If clause 14 could not be applied in such cases, then nothing would prevent them from charging higher rates. So he was of opinion that the law framed should be such as to enable the Government to see that no money lender charged any rate higher than what was contemplated in the law. If a particular rate was fixed it must apply to all. He was not for the grant of any exemption to any institution so far as the rate of interest was concerned.

Mr. K.R. SRINIVASA IYENGAR also agreed with the above view. He added that so far as other institutions controlled by their own rules, exemptions might be given in certain respects, but so far as the rate of interest was concerned, there should be no exemption.

Mr. B.T. KESAVAIENGAR said that the bill had been drafted with a certain purpose and clause 14 would cover cases coming under the earlier portions of the bill. If there was any doubt, the matter might be left to be decided by the courts.

Mr. B.S. PUTTASWAMI said that when once exemption was given, different courts might hold

different views with the result that some of them might hold that Chapter IV would not at all apply.

Mr. MAHOMED ABBAS KHAN suggested that to make the point clear, a proviso might be added to the clause to the effect that under no circumstances, exemptions would be granted under Chapter IV.

Mr. B.S. PUTTASWAMY said that if it was the intention of the Government that no bank or individual money lender should charge a higher rate of interest than that provided for, then, Government ought to make that point clear. It was better to add a separate clause to the bill to this effect instead of having it as a proviso to an existing section.

Mr. MIRLE N. LAKHSMINARANAPPA enquired whether it was the intention of the House that there should be no exemption under Sections 14 to 17.

The CHAIRMAN said that he would like to leave the clause as it was, leaving it to Government to take whatever action they might consider desirable.

Mr. B.T. KESAVAIENGAR said that if the suggestion of Mr. B.S. Puttaswamy was given effect to, it might tie the hands of the Government in emergencies. This point had to be examined carefully.

~~The CHAIRMAN said that~~ This was only an attempt at controlling ~~xx~~ the money-lenders. And this attempt was in an experimental stage

and as such it was desirable to proceed very cautiously. For this reason, it was desirable not to introduce too many restrictions. So the bill had been drafted in a flexible manner, and in general terms. He thought that the members had in view the object would be served by the Committee recording the view that there ought not to be any occasion for the grant of exemptions under Sections 14 to 17.

The members agreed to the above suggestion.

At this stage, Mr. Mahomed Abbas Khan enquired how long after the issuing of the notification would this law be brought into effect. He was asking this question with a particular object. He had heard it from some of the money-lenders that if the law was brought into force a few months after the notification in this respect was issued, the money-lenders would close their business in the State or otherwise their business would suffer. That was why he was asking for information on the point.

(Marwari and Pathan money-lenders)

The CHAIRMAN replied that this would be brought into force as soon as it was passed into law.

Mr. K.R. SRINIVASA IYENGAR said that after going through the entire bill, the House might see which of the provisions was harsh and would affect the money-lenders and try to modify them to the extent possible.

Mr. BELUR SRINIVASA IYENGAR suggested that

in the first instance, this might be applied to loans of Rs. 500 and below.

The CHAIRMAN observed that the very object object of the bill would be frustrated if the suggestion was given effect to, and as such it could not for a moment be entertained.

Clause 2 (4) Definition of "money-lender"

Mr. MAHOMED ABBAS KHAN enquired whether casual money lending by landholders to their raiyats for carrying on agricultural operations also would come within the purview of this law.

The CHAIRMAN replied that "carrying on the business of money lending" meant a repetition of the act. As such, these casual transactions would not be affected by the law.

Clause 2 (5)..

The addition of the word "other" between the words "in common with any" and "business" in this sub-section.

This was ~~xgxx~~ accepted by all the members.

Clauses 2(6) to 2(10).

No discussion.

Clause 2(11)

Mr. BELUR SRINIVASA IYENGAR said that the definition of "Registrar" was not necessary. He took ~~exception~~ objection to the appoint^ment of a separate officer called "Registrar" to register the licences etc., ~~Xhixxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ The present Sub-Registrars^ should be given the power to maintain the necessary registers^ required under this law. When the CHAIRMAN replied that there ~~xxxx~~ was no idea to appoint ~~new officers~~ any additional staff for this purpose, ~~xkx~~ Mr. SRINIVASA IYENGAR agreed to the retention of the definition.

Clause 2(13). Mr. Belur SRINIVASA IYENGAR said that as there was no need for thi's sub-clause in view of the explanation contained in sub-clause 12, this might be deleted.

Mr. MIRLE N. LAKSHMINARANAPPA said that it was necessary and should be retained. The Chairman also agreed with the above view.

CHAPTER II.

Clauses 3 and 4. No discussion.

So far as Registration of Money-lenders was concerned, Mrr K.R. SRINIVASA IYENGAR enquired what exactly was its object. In reply, The CHAIRMAN said that it was necessary with a view to know who were all money lenders.

Mr. Belur SRINIVASA IYENGAR said that even in England, the law did not provide for the registration of money lenders and he did not see any necessity for it in the State also.

Mr. CHENNIGARAMIAH was of the opinion that both registration and licensing or at least licensing might be done away with.

Mr. K.R. SRINIVASA IYENGAR said that the object of the legislation was to give protection to the debtors and that protection was provided for by placing certain obligations upon money lenders and if the money-lenders did not discharge those obligations, they would have to undergo certain penalties. Such being the case, he did not see the necessity for registration.

P.T.O.

The CHAIRMAN said that ~~in similar measures~~ was in other provinces, registration ~~was~~ provided for in some and both registration and licensing in some others. For instance, the C.P., and the Behar Acts provided for registration only, and the Bombay Bill for licensing only. The Bengal Act provided both for registration and licensing. Registration was quite necessary. Otherwise there would be no control over money-lenders. There was nothing infra dig in the money-lenders getting themselves registered.

All except Messrs. BELUR SRINIVASA IYENGAR AND K.R. SRINIVASIENGAR supported the above view

The CHAIRMAN observed that once registration of money-lenders was considered necessary and was provided for in the legislation, penalties for infringing the law should be provided for in the bill. Necessary provision for this purpose might be added on to the bill at a later stage.

LICENSING.

So far as licensing was concerned, the CHAIRMAN said that the object of Government including this provision in the bill was that it should be applied in very special cases.

MR. B.S. PUTTASWAMI said that as at present proposed, any person applying for licence might be granted a licence. Supposing the authorities granting the licence were of the opinion that the person applying for licence was not a reliable

person. He enquired whether in such cases, the authorities should automatically issue the licence ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ or whether some discretion should vest in them to refuse the grant of licences. For example, a person convicted under a similar Act elsewhere comes to Mysore and applies for licence. Should the licensing authority grant the licence automatically or should any discretion vest in him to refuse? ~~That was the point on which he would like to know the view of the House.~~

The CHAIRMAN said that in England, a certificate could be refused for various reasons (Sections quoted by the Chairman). In the bill also a condition might be laid down that for certain specified reasons, the licence might be refused. But the point to be considered was whether in a legislation of this type, discrimination could be made as between good money-lender and bad. He invited the opinion of the House on this point.

Mr. K.R. SRINIVASA IYENGAR said that since registration has been found to be necessary, there ought to be no question of discrimination at that stage. As regards licensing, he was not for giving the authorities concerned the arbitrary decision to refuse. It must be on the judgment of a court. He also added that if ~~xxxxxxx~~ money-making was not the object of licensing and if licensing was going to automatically follow registration, no useful purpose would be served by such licensing.

Mr. MAHOMED ABBAS KHAN said that the provision for licensing might be deleted. -- Registra-

was quite sufficient. Licensing was superfluous. If however licensing was retained, no discretion should be given to the Registering Officer to refuse licence unless it be on the verdict of the courts in the State.

Mr. MIRLE N. LAKSHMINARANAPPA said that if that position was accepted, persons declared to be bad in Madras courts might get an opportunity to do money-lending business.

Mr. MAHOMED ABBAS KHAN also pointed out that when a period of three years had been prescribed for registration, no useful purpose would be served by forcing the people to obtain fresh licences year after year.

Mr. B.S. PUTTASWAMI agreed with the view expressed by the Government Advocate and enquired whether in such cases, the licensing authority should automatically grant the licence, or refuse to do so on the ground of the person being a bad character.

Mr. B.T. KESAVAIENGAR said that if it was the intention of the authority concerned to prevent a person from doing money-lending business, he could go to the length of saying that the person ought not to be registered. Licensing followed registration. That must be the principle.

The CHAIRMAN at this stage observed that he understood from the Government Advocate that no licensing officer had any power to refuse the grant of license. The question was whether the clause might be left as it was, or whether any discretion should be vested in the

licensing officer. If the sense of the House was that some power should be taken in this behalf, the necessary provision would be drafted and included. ~~Xthexxxxxx~~ If on the other hand it was the Committee thought that it was too drastic a step to take in view of the fact that the attempt to control money-lending was still in an experimental stage, the clause might be laft ~~xxxxtxx~~ as it was for the time being. ~~Xxxxfxthe~~ He invites the opinion of the members on the point.

Mr. BELUR SRINIVASA IYENGAR was against both registration and licensing.

Messrs. K.R. Srinivasa Iyengar, Girimaji Rao ~~and Mahomed Abbas Khan were for the deletion of licensing~~ agreed with Mr Belur Srinivasiengar.

Messrs. B.S. Puttaswamy, Chennigaramiah, Mr. Mirle N. Lakshminaranappa and Henry E. White were for stiffening the ~~licensing process of~~ provisions relating to licensing.

As regards the fees for obtaining a licence, Mr. MAHOMED ABBAS KHAN requested that the amount be fixed in the Regulation itself.

The CHAIRMAN replied that it was a matter of detail, and some reasonable fee would be prescribed ~~He did not see any necessity to prescribe it under the Regulation itself~~ drop fix. There was no necessity to do so; that.

At this stage, the meeting adjourned to meet again at 1 p.m., on Tuesday, 21st March 1939.

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re to paras 34+35 (37)

THE MONEY LENDERS' BILL.

Second Meeting of the Select Committee

The Second meeting of the Select Committee on the above Bill was held in the First Member's Chamber commencing at 1 p.m., on Tuesday, 21st March 1939.

All the members except Messrs. B.R. Puttananjappa and P.Subbarama Chetty were present.

At the outset, KHAN BAHADUR MAHOMED ABBAS KHAN suggested that there should be substantive provision in the Bill to the effect that no money lender should do money-lending business without obtaining a licence. Though it was implied under clause 5, there was nothing positive to that effect. If the Committee agreed with the view that there should be some provision to that effect, it was better to have it at the beginning of Chapter II.

Mr. K.R. SRINIVASAIENGAR did not consider any such provision necessary in view of the existing clause 5 of the bill.

The CHAIRMAN thought that the insertion of a provision as suggested by Mr. Mahomed Abbas Khan would lead to trouble if licensing was not prescribed for everybody, and for that reason there was no need to include such a provision in the bill. Besides it was desirable to make the bill as simple as possible and if anything was found necessary later on, there would be time enough

to amend the Act.

Mr. MAHOMED ABBAS KHAN said that in the Bengal Bill there was such a clause and it was desirable to incorporate such a provision in the bill under discussion also.

The CHAIRMAN replied that the Bengal Bill was very comprehensive and there would be no end to the number of amendments that could be introduced in the bill if the provisions of the Bengal Bill should be introduced in it.

CHAPTER III.

Clause 9. Mr. Mahomed Abbas Khan suggested that the languages in which the accounts etc., should be maintained had better be prescribed.

The CHAIRMAN AND OTHER MEMBERS were of the opinion that it might be left to be done under the rules.

Clause 10. Mr. MAHOMED ABBAS KHAN enquired if the words "if necessary" at the end of the clause were necessary,

Mr. B.S. PUTTASWAMI thought that the phrase might mean "if the debtor asks for it" and so it might be altered to "duly signed and stamped according to law".

The CHAIRMAN said that this was the form in which the provision had been framed in other Acts and as this was the standard form, it might be left as it was.

Clause 11. No remarks.

Clause 12. (1). Mr. T. RAMACHANDRA suggested that pawn-

pawn-brokers should not be allowed to receive household articles or clothes on pawn and lend monies to the people bringing them. This restriction, if given effect to, would save many poor familes from being deprived of their brass and copper vessals and also clothing.

(2) Khan Bahadur MAHOMED ABBAS KHAN suggested that the pawnor might be given a duly signed copy of the entries instead of a true copy as stated in the bill.

Mr. K.R. SRINIVASA IYENGAR said that a true copy of the entries signed by the pawn-broker or his agent at the time of pawning, should be delivered to the pawnor.

The other members also supported this amendment.

Mr. MAHOMED ABBAS KHAN next suggested that the time limit for redemption of the pawn should be inserted in the bill. The House considered that this was an important point and agreed to insert the following as 19(1) (b):-

"The time agreed upon for the redepmtion of the pawn".

Consequent on the above addition, the present 19(1)(b) would be 19(1)(c).

Clause 13. (1) Messrs. Mahomed Abbas Khan, Belur Srinivasa Iyengar and K.R. Srinivasa Iyengar were of the view that unless there was an application or complaint from the aggrieved party, the Registrar should not voluntarily inspect the accounts of money lenders. The power given to the Registrar under this section was extraordinary.

members
The did not want the transactions of money-lenders to be exposed to the notice of the Registrar. Only on complaints received the Registrar should inspect these accounts, and not voluntarily. Such a provision was not to be found in ~~any~~ similar legislation passed by other Governments.

On the other hand, Mr. B. S. Puttaswami thought ~~that~~ if the above position was accepted, it would lead to difficulties. For example in if a case filed, there was compromise between the parties, there would be no chance of finding out the irregularities. Mr. Henry M. White also was in favour of the existing clause. Mr. Mirle N. Lakshminaranappa said that there was nothing novel in the inspection of accounts by Government Officers. Such a procedure was in force in respect of income-tax accounts, and the Government Officers were ransacking the accounts of private individuals to arrive at the assessable income ~~income~~ for purposes of income-tax.

THe CHAIRMAN thought that sub-clauses (1) and (2) might be recast as follows:--

" When the officer authorised in this behalf by the Government has reason to believe that the account required to be maintained under this Act are not properly maintained by ~~the~~ money-lender, he may call upon the money lender to produce the books of accounts for inspection and such money-lender shall be bound to produce all books of account for inspection....."

All the members except Mr. Belur SRINIVASA IYENGAR supported the ~~was not satisfied~~ proposed change amendment. ~~even with this amendment.~~

The CHAIRMAN also considered it necessary that a provision should be incorporated in the bill casting a duty on the money-lender to produce the books of accounts when called upon to do so.

CHAPTER IV:

Clause 14. Mr. Mahomed Abbas Khan expressed the view that the provisions of this Chapter should be applied to all transactions whether the provisions of this ~~Act~~ Bill were in force or not.

Mr. K.R. SRINIVASIENGAR said that there should be no exemptions~~xx~~ so far as this chapter was concerned.

The CHAIRMAN observed that in the last sitting the House had come to the conclusion that ~~xxx xxxxxxxxxxxxx~~ the clause should be allowed to remain in its present ~~f~~flexible form and that any modification might be thought of later when considered necessary. In this view he thought that no further discussion was called for on it.

Mr. MAHOMED ABBAS KHAN suggested that ~~sd~~ as far as the interest to be prescribed was concerned, it should be 15 per cent for unsecured loans and 9 per cent for secured loans as against 12 and 6 provided for in the bill.

Mr. K.R. SRINIVASA IYENGAR also was in favour of the above suggestion. He said that from his experience of the working of the land-mortgage banks, 15 per cent on unsecured loans was not at all high or unreasonable.

~~XXX~~ Mr. T. RAMACHANDRA was in favour of retaining the percentages mentioned in the bill.

The CHAIRMAN ~~xxxxxxx~~ placed before the House the rates prescribed in other provinces and said that generally the rate of interest for secured loans was 9 per cent and for unsecured loans, it was generally 12 per cent ~~generally~~ and in one or two instances, it was 15 per cent. In view of the discussions that took place in the L.C., and ~~xxxxxxx~~ also of the fact that 9 and 12

per cent seemed to be the prevailing rates for secured and unsecured loans generally, what was proposed in the bill was quite reasonable.

MR. T. RAMACHANDRA suggested that this clause should be applied to loans issued even before the commencement of this Act and for this purpose the words "before and " should be added after the words "....in respect of a loan advanced" in the 3rd line of the clause.

Mr. K.R. SRINIVASIENGAR was not in favour of givin retrospective effect to this bill.

The CHAIRMAN also agreed with the above view on the ground that it was not right to introduce a new legislation which would affect the sanctity of ~~xxxxxx~~ contract entered into by parties prior to its introduction.

So far as Clause 14 was concerned, the majority were in favour of retaining it in its present form.

Clause 15. Mr. K.R. SRINIVASAIENGAR expressed the opinion that ~~xxxxx

the whole or a portion of the interest might be disallowed for non-compliance with the provisions of sections 9 or 12, there was no justification at all for disallowing the costs. This would mean double punishment to the money-lender. Disallowing the interest, wholly or in part, would be quite sufficient.

Mr. BELUR SRINIVASA IYENGAR said that in the Madras Act interest was disallowed for one offence and the court cost disallowed for another offence. Different punishments were prescribed for different offences. The clause in the Bill might be amended in such a manner as to provide a particular punsihment for a particular offence. As it was, both were mixed together.

The CHAIRMAN observed that all these were discretionary powers. The Court might allow costs, or disallow interest, or a portion of the interest or dis-allow costs. It all depended upon the gravity of the default. This might be left to the courts to decide. All the same, he would have no objection to amend the last portion of the clause as follows:--

"The Court may also disallow the whole or any portion of the cost"

The House unanimously supported the amendment.

CHAPTER V.

Clause 19. Mr. MAHOMED ABBAS KHAN said that the punishment provided for under this clause for the offence of fraud or contravention of the provisions of the Act by the money-lender was very drastic. Whatever the offence, to deprive him of the means of livelihood was a severe one. The money-lenders take some

risks in lending money and they have been a source of great help to the mercantile community. Such drastic punishments as depriving the means of livelihood of the person would result in curtailing the scope for credits.

Mr. BELUR SRINIVASA IYENGAR was of the opinion that this section was not at all necessary. If a money-lender had acted in contravention of the provisions of the Act, he would lose his interest or costs or both. If he was guilty of fraud, he would be punished under the I.P.C. Such a section was not to be found in the Madras Act.

The CHAIRMAN observed that if a money-lender was considered to be dangerous to society, there was nothing wrong in disqualifying him from doing money-lending business. Even under the Medical Practitioners Act, medical men were being debarred for unprofessonal conduct. So this was not a new procedure. He did not agree with Mr. Belur Srinivasa Iyengar argument that for an offence of fraud, the money-kender would become liable for punishment under I.P.C. At that rate, there was no need for a special law like the one under discussion as for every offence there was provision for punishment under some Act or the other. Besides, it must be borne in mind that all these penalties would not be cumulative. The Court may not take action under every one of these sections. He would like to say that this provision was a very important one. If it was agreed that money-lending business was a profession, those following that profession should observe certain professional etiquette, and the penalty that was appropriate for unprofessional conduct is the penalty of being debarred.

Mr. K.R. SRINIVASA IYENGAR suggested that the

words "or is otherwise" be deleted and the words "so as to make him" inserted instead.

Mr. T. RAMACHANDRA said that the words "or is otherwise unfit" implied that in addition to fraud and contravention of the provisions of the Act, ~~it~~ there was something else which was not mentioned in the Act and for that reason, it was desirable to make the point clear.

After further discussion, the House agreed to retain the clause as it was.

19(2) and (3) No discussion.

19(4). The ~~addition~~ insertion of the words "deemed to be" between the words "be" and "disqualifie was suggested.

Mr. Mahomed Abbas Khan ~~It was~~ considered necessary that there must be provision for appeal against the orders of the court and the period within which the appeal should be preferred also should be mentioned in the bill. ~~This suggestion was considered reasonable and For this purpose, the House was of the opinion that~~ it was decided that the corresponding section in the Bombay Act be introduced in the Bill, and the new sub-clause be treated as 19(5).

Clause 20. Mr. MAHOMED ABBAS KHAN objected to the provision of imprisonment contained in this clause. ~~He said that~~ and wanted that this should be deleted from the clause. He said that Imprisonment should be only for default of the payment of fine and not as a substantive punishment. If however the punishment of imprisonment ~~was considered necessary to be inflicted~~, it must be simple imprisonment and not rigorous.

It was finally agreed that for the second offence, ~~xhx~~ a fine which might extend to Rs. 500 might

be imposed and for subsequent offence, the punishment proposed in the Bengal Bill might be adopted, and Rule 5 existing Clause to be suitably modified.

Mr. MAHOMED ABBAS KHAN brought to notice that ~~xexthexbillxwasxframed~~ in the manner in which the bill was framed, there was no chance for the moneylender to get the order of cancellation of his licence, cancelled. Once it was passed, ~~xxxxxxx~~ the disqualification would continue all through his life. This was not right. There must be some opportunity provided to him to get the order cancelled so that he might take up the business once again.

Mr. B.T. KESAVAIENGAR also considered it necessary that there should be ~~xxxx~~ provision in the bill to enable the Government or some other officer ~~xxthxxixxx~~ authorised by the Government to ~~xxxixxx~~ remove the disqualification imposed on any moneylender and ~~xxxx~~ allow him to do his money-lending business if they felt that another chance should be given to him.

The CHAIRMAN observed that this would necessitate the creation of a Registering Authority who would exercise the discretion in the matter, ~~xhe~~ and suggested that the corresponding provision in the Bengal Bill might be introduced in the bill under discussion. The House agreed to this suggestion.

Mr. MAHOMED ABBAS KHAN suggested that ~~xxxshouxd~~ ~~xxxmadexxxxxxx~~ provision should be made in the bill to the effect that no prosecutions under this Act should be launched after the lapse of one year.

This suggestion was noted.

CHAPTER VI.

Clauses 21 and 22. No discussion.

Clause 23. The CHAIRMAN was of the opinion that Chapter V also should be included within the scope of this clause.

The discussion on the several clauses of the bill over, the question whether any of the money-lenders should be invited to express their views on the bill. It was agreed that 3 or 4 select representatives might be invited and after hearing them, necessary modifications might be made in the Bill. For this purpose, it was decided that the House should meet again on 6th April 1939.

The meeting terminated at 5.30 P.M.

MONEYLENDERS BILL.

8th. April 1939. SELECT COMMITTEE.

Representatives of the following Associations have been invited to present their views on the Bill to-day:-

1. The Sind Shikarpur Bankers Association.

2. The Multani Moneylenders

3. The Pathan Moneylenders.

4. The Marwari Jain Merchants of Kolar Gold Fields.

Encl to para 1 of 45

MONEY LENDERS BILL.

The third meeting of the Select Committee was held in the Chambers of the First Member of Council, commencing at 1 p.m., on Saturday, 8th April 1939.

The following members were present:--

Rajasabhabhushana Diwan Bahadur K.R. Srinivasaiengar.
Mr. S. Abdul Wajid.
Mr. Belur Srinivasa Iyengar.
Khan Bahadur Mahomed Abbas Khan.
Mr. M.S. Ramachandra Rao.
Mr. B.S. Puttaswami.
Mr. M. Abdul Hukh.
Mr. Henry M. White.
Mr. G. Girimaji Rao.
Mr. R. Chennigaramiah.
Mr. P. Subbarama Chetty.
Mr. T. Ramachandra.
Mr. Mirle N. Lakshminaranappa.
Rajasevaprasaktha B.T. Kesavaiengar.

Absent.

Mr. B.R. Puttanaiappa.

The examination of witnesses commenced at 1 p.m., The representative of the Sind-Shikarpur Bankers' Association was the first to give evidence before the Committee. He said that the transactions of the Sind-Shikarpur Bankers amounted to lakhs. They were advancing money on what are called hundies. They were negotiating with the Imperial Bank, the Central Bank and other big banks and their reliability was known throughout India. He also placed on the table of the House the printed forms maintained by the bankers for use in their daily transactions. Finally he said that for these and other reasons set forth in detail in the printed memorandum, the legislation under discussion should not be made applicable to them.

The Chairman replied that that point was not open to discussion at present. The law would

be applied to all classes of ~~bankers~~ money-lenders and he would like to know if there were any provisions in the bill which affected the business of ~~money-lenders~~ the said Bankers.

The representative replied that some of the provisions were harsh. The ~~p~~provision that the accounts should be maintained in such language as the Government might prescribe, was sure to cause great hardship to the bankers. The Government ought not to compel the bankers to maintain accounts in a language with which they are not familiar. ~~Government might say that the accounts should be maintained either in English or Kanada.~~ The bankers did not know either ~~of these~~ two languages (English or Kanada which were of the Country). To maintain accounts in these languages, the bankers had to entertain clerks. If the bankers ~~were to~~ should live at the mercy of these clerks, they would be nowhere. Also, it would not be possible for them to offer ~~such~~ the present low rates of interest unless they cut down their expenses to the minimum. Entertaining of clerks to maintain accounts would add to their costs and ~~they~~ this would ~~have to~~ necessitate their raising the rates of interest.

Mr. B.S. PUTTASWAMI thought that when the bankers were issuing receipts in English, and were maintaining some of the accounts in that language, there ought not to be any difficulty in maintaining all their accounts in that language.

To the query of ~~another~~ a member whether the bankers were not furnishing accounts in English ~~for the purpose of~~ for income-tax purposes, the representative replied that they were maintaining accounts only in Guzarati and that there was a Guzrati Auditor to ~~check~~ audit their accounts.

Mr. B.S. Puttaswami thought that as the bankers were already using certain forms printed in English for their daily transactions, such as pro-notes, pass-book, receipts, etc., there ought not to be much of difficulty for them to maintain all their ~~accounts~~ transactions in English.

The representative replied that many more books than the few forms placed before the House had to be maintained by the bankers and all of them could not be maintained in either English or Kannada.

The representative was not in favour of licensing money-lenders. He also added that the inspection of Registers by the Registrar would affect the reputation of the bankers. It was very necessary that the secrecy of transactions should be guaranteed. But such a course would not be possible if the books were to be placed at the disposal of the Registrar whenever called for. This would seriously affect the money-lending business.

The bill provided that the money-lender should on demand by the debtor furnish the debtor with an authorised statement of his accounts, but no obligation had been imposed on the debtor to acknowledge its correctness. It was necessary that it should be made incumbent on the debtor to acknowledge the correctness of the accounts within a prescribed time limit.

As regards the rate of interest, the bill provided for a maximum of 9 per cent in the case of secured loans and 12 per cent in the case of unsecured loans. But the interest charged by the

bankers was lower than these rates as explained in the Memorandum. On Hundies, they were charging between 7½ to 9 per cent and on khata accounts, between 9 and 10½ per cent. How these rates were fixed was also explained in the Memorandum. If the rates were to be changed, all the bankers should convene a meeting and decide upon the change and these rates were inter-dependent on the rates of the Imperial Bank. At present, the Imperial Bank was lending at 3 per cent to bankers and the bankers in their turn at 9 per cent. Excluding all incidental charges such as working expenses, bad debts, etc., the bankers were getting only 8 annas per hundred a month, and this worked out at 6 per cent per annum. If the Imperial Bank raised its rate to 4 or 5 per cent, then, the bankers also would have to raise their rates of interest. In the past, the bankers had paid 9 per cent to the Imperial Bank and charged 15 to 16 per cent on the loans issued by them.

Mr. K.R. Srinivasa Iyengar said that the Govt took into account the present conditions of the money-market in fixing the rate, but this rate should not be considered to be the rate for all time.

Referring to Clause 17, the representative said that the bankers would be handicapped if this provision was enforced. Supposing a person borrowed a loan of Rs. 100 at 12 per cent per annum on a mortgage deed. The deed would hold good for 12 years and if the party did not pay any interest, it would amount to 144 Rs. in 12 years. But according to this provision, no court should decree on account of arrears of interest a sum greater than the principal of the original loan.

He also added that it was necessary to make clear what the term "original loan" meant. He was of opinion that all sums on the debit side of the party should be treated as original account.

Proceeding, he pointed out that the compound interest at 6 per cent would be much less than 9 per cent simple interest, for a period of three years.

Mr. P. Subbarama Chetty enquired whether in the case of running accounts, the bankers were not in the habit of debiting to the account the interest every half year. The representative replied that so long as the khata accounts were running, the person concerned would be charged at a particular rate of interest. If he paid the interest in cash, it was all right. If he did not pay it in cash, it stood to reason that it should be debited to his account. Generally the interest was calculated every year. That was the procedure followed.

The representative brought to the notice of the House that the provisions of Section 9 were made proposed to be applicable to transactions which had taken place even before the commencement of this Act. But in the Madras ~~Government~~ Money Lenders Act, it had been made clear that this would affect only fresh transactions from the date of the commencement of this Act. It was better to follow the Madras rule in this respect here also.

The Chairman pointed out that this was only in respect of maintenance of accounts and as such there could not be any great hardship caused to the bankers.

In conclusion, the representative said that the Sind Shikarpur Bankers should not be classified in the same category of petty money-lenders.

Neither the Government of the Punjab where the Money Lenders Bill was first introduced, nor the other Presidencies like the Madras Presidency had brought them within the scope of the law. They had differentiated between the bankers and money-lenders, and had classified them separately. Even the Banking Enquiry Committee had recommended that bankers should not be treated as ordinary money-lenders. The Sindh Bankers were financing the merchants and traders and industrialists in the State for the past 25 years -- to the tune of a crore of rupees. Such bankers should not be dealt with in the same way as petty money-lenders.

Representative of Multani Money-lenders represented by his Counsel, Mr. Beli Vasudeva Murthy

Mr. B. Vasudeva Murthy pleading the cause of the Multani Money-lenders said that the bill under discussion was quite unnecessary and that the present pieces of legislation such as Usurious Loans Act, the Agriculturists Relief Act, Debt Conciliation Act, Amendment to the Civil Procedure Code were sufficient to give relief to the debtors. By the recent amendment to the Civil Procedure Code, power to arrest debtors except in exceptional cases has been taken away and the pay of those getting less than Rs. 50 could not be attached. These Acts were more than sufficient to afford relief to all classes and the evil was not so widespread as to necessitate the introduction of legislation like the one before the House, which

was ~~quite~~ Very harsh. Even at present, it was open to the debtors to request their creditors to calculate and charge low rates of interest.

Referring to Registration of money-lenders, he said that the multani money-lenders were strongly opposed to it. The question of registration was raised in other Presidencies like Madras when the Debtors' Protection Act was under consideration and also in the Pubjab, but was not accepted. Registration particularly in the form in which it was provided for in the bill and renewing it once in three years was likely to cause unnecessary hardship to money-lenders. If considered necessary, registration might be made for life as this would save a lot of worry to these people.

Also licensing was open to serious objection. It was really unnecessary. It was not being done for any fiscal purpose. If this was insisted upon, money-lenders would have to subject themselves to a lot of harrassment, more especially in the mofussil, at the hands of petty officials whom they should approach to obtain their licenses. While licensing could be justified in the case of possession of arms, or in respect of liquor shops, it is not at all necessary in the case of money-lenders.

Mr. B.S. Puttaswami said that just as pleaders, these money lenders also could obtain their licenses.

Mr. Vasudeva Murthy said that so far as pleaders were concerned, only those who could not pay their ~~registration~~ licensing fees ~~were~~ in

As regards the maintenance of accounts, Mr. Vasudeva Murthy said that the Multani money-lenders were maintaining the day book, the ledger etc., and were giving receipts for moneys received. They had a system of giving pass books to their debtors in which all payments made to the debtor and the amounts received by the creditors were being entered. To the query of Mr. Belur Srinivasa Iyengar whether the money-lenders had any objection to giving the statement of accounts of the debtors in the language of the debtors, Mr. Vasudeva Murthy replied in the negative. He said that in the Memorandum of the multani-money-lenders it had been clearly stated that they had no objection to giving the statement in any language the debtor wanted. So long as the debtors were given the statement of their account in any language in which they wanted, it did not matter in what language the creditors maintained their accounts. So, no useful purpose would be served in insisting that the accounts should be maintained in the prescribed languages by the money lenders. While it was unnecessary it would add to the expenditure of the money-lender and this would ultimately fall on the borrower. Also this would affect the privacy of the transactions as this would necessitate their employing clerks.

(Copy exhibited)

Referring to the provision about inspection of books by the Registrar, Mr. Vasudeva Murthy drew the attention of the House to the statement contained in the printed memorandum on this point and added that this power should be vested only in the District Magistrate or some other higher functionary.

Referring to the rates of interest, Mr. Vasudeva Murthy pleaded that the rates provided in the bill were too low. The multanis were themselves borrowing from bankers at the rate of 8 to 9 per cent. Whereas the bankers lent their own money, the multanis were lending other's money. In this respect, they were not having the same facilities as the Sindh Bankers and they could not lend money at such low rates of interest as the bankers. So the rates fixed would cause great hardship on the multani money lenders.

Mr. P. Subbarama Chetty did not agree that the multanis were borrowing at 8 or 9 per cent as stated above. In his opinion, the highest rate was not more than 4½ per cent.

Continuing, Mr. Vasudeva Murthy said that as these multani money-lenders were lending monies to petty shop-keepers who make daily payments or weekly payments and who offer no security whatsoever, it was impossible to do any business at the rates fixed.

Mr. P. Subbarama Chetty enquired at what rates of interest the multanis were lending money to people. Mr. Vasudeva Murthy said that the interest ranged from Re.1 to Rs. 2-8-0 per month on Rs. 100. At times, an amount of Rs. 6 would be deducted out of Rs. 100 at the time of payment and the principal would be recovered in 100 instalments at the rate of one rupee per day. Very often the interest would be recovered only for one month. This worked out at 12 to 30 per cent. Taking into consideration the fact that a lot of

risk was involved in advancing money without proper security, the rate now charged was not very high.

Referring to penalties, Mr. Vasudeva Murthy said that the penalties prescribed in the bill were very heavy. It was better to leave the matter to courts of law to decide. By giving power to munsiffs to cancel registration, the money lenders would be deprived of their livelihoo whatever may be the standing of these people. No appeals are provided for against the orders of the munsiffs. Providing such heavy punishments where there will probably room for difference of opinion is unjust. It was also necessary to provide for appeals against the order of the Registrar or of the court.

Evidence of Mr. Bhavari Lal, Representative of Money-lenders and Pawn Brokers of the K.G.F. Sanitary Board area.

Mr. Bhavari Lal said that the present bill should not be brought into operation in the K.G.F. area. The people there were not permanent residents of the place, nor did they own any properties. Money lenders in that area were taking heavy risks in lending monies to these people who could offer no security whatsoever.

The Chairman observed that it was not possible to exclude the K.G.F. area from the scope of this legislation and requested Mr. Bhavari Lal to offer his suggestions on the bill assuming that it would apply to the K.G.F. area also.

Mr. Bhavari Lal said that neither registratior

nor licensing was necessary for money-lenders. To get themselves registered, the money lenders would have to approach petty clerks and this meant unnecessary trouble and annoyance to them.

As regards maintaining accounts, he said that money-lenders were quite prepared to maintain proper accounts and they would be willing to purchase the necessary books and forms from the Government if they would print these books and make them available for sale to the money lenders. They were prepared to give receipts to the debtors for moneys received and also the statement of account whenever the debtors demand for the same.

The rate of interest fixed in the bill was very low. The transactions of the pawn-brokers ranged from 4 annas to a few rupees and even according to the present rate of interest charged by them, they were not getting more than 1½ pies per rupee. For these reasons he requested that in respect of these small transactions, /ranging up to 15 or 20 Rs./ the money-lenders should be given the discretion to charge their own rate of interest. Otherwise the pawn-brokers would have to close their shops and get away. There were about 100 pawn brokers shops in the K.G.F. area and the daily transactions in each of them might not be more than Rs. 20, and the total income of each shop would not exceed Rs. 1. per day. The capital of each pawn-broker would not be more than Rs. 1,000. He thought that 12 per cent on secured loans and 15 on unsecured loans would be a fair rate.

???

The accounts are maintained in Hindi which is not the Common Language in India.

Pathan Money lender's representative with his Counsel, Mr. A.J. Khaleel.

Mr. Khaleel said that there were 150 pathe money lenders in the State. Their average capital ranged from Rs. 500 to Rs. 2,000. Their transactions ranged from Rs. 5 to Rs. 100 per person and the interest charged ranged from 6 pies to one anna per rupee per month. At times, they were chagging even 0-1-6 per rupee per month, but due to the heavy losses they were sustaining, it would work out at only 3 pies per rupee.

The Pathans were not getting any financia accommodation from any banks. They were doing business with their own capital. They would not borrow generally and even if they wanted borrow, there were none to pay them. To the query whether they had an association of thei own, Mr. Khaleel said that they had none as people belonged to different tribes. Each pathan does his money-lending business separa ly.

The accounts were being maintained in Pish and some of the pathans did not know even tha language. No separate receipts were being given for payments made by the debtors, but a record was being made on the back of the pro-note itself. They had no day-book or ledger, The transactions being very small, it would not pay them to have any clerks t maintain accounts.

Registration and Licensing would not help anybody and as such there was no necessity to insist upon the money lenders getting themse registered and obtaining licences.

At this stage, the House adjourned for Lunch and reassembled at 3.30 p.m,

The examination of witnesses over, the final consideration of the various clauses of the Bill was taken up.

Clauses 1 to 8. *No discussion.*

Clause 9. *One of the members said that if the provisions of this clause were insisted upon, it would be difficult for the people in the villagers to get any loans at all. At present the village money-lenders were useful instruments in accommodating the people whenever they wanted any loan for a short period. That credit will be lost to them.*

Mr. K.R. Srinivasa Iyengar also thought that this rule might not be extended in the case of very small money lenders in the villages. Otherwise the raiyats would get no credit whatever. Most of the poor money-lenders were not in a position to maintain accounts and were not at all maintaining accounts.

The Chairman observed that under the circumstances explained the best thing to do was to go slowly in the matter of extending the provisions of the Act to the rural parts.

*Mr. P. Subbarama Chetty also was of the opinion that in the case of small transactions, maintenance of accounts need not be insisted upon. There were some practical difficulties in such an arrangement. In the case of small pawn-brokers for instance, their capital might not be more than 500 Rs. and for a transaction of half a rupee, if he should be insisted upon to maintain accounts, it would not be pos-

possible for him to do so. A certain limit should be fixed above which alone maintenance of accounts should be insisted upon and also a simple system of /------/maintenance of accounts should be prescribed.

The Chairman observed that it was very necessary even with regard to small transactions that accounts should be maintained. For instance, in the case of pawn-brokers, if they did not maintain accounts for the small sums they lent out, then it would be difficult to get any evidence of pawning at all.

Mr. P. Subbarama Chetty thought that the pawn brokers might be insisted upon to give a receipt to the persons for the articles taken as security for his loan. That would be a sufficient safeguard so far as the debtor was concerned.

Mr. B.S. Puttaswami said that if a person was capable of giving receipts for the articles received as security, he could as well maintain accounts. As most of the people going to the pawn-brokers were illiterate persons, it was necessary to have a record of such transactions in the pawnor's book.

The Chairman quoted extracts from the ..... report and said that it was not possible to exempt persons on transactions of small value as suggested by Mr. Subbarama Chetty. These small transactions in the aggregate amount to a big sum.

Mr. K. R. Srinivasa Iyengar also thought that it was necessary for the pawn broker to have a record of articles taken in pawn by

them as it would not be possible for them to carry avery detail in their brain. He felt that the less the illiterate paun-brokers in the field, the better it was for poor people. Whether it was 4 annas or anything less, there must be an account maintained.

The Chairman quoted extracts from the ..... report and said that it was not possible to exempt persons or transactions of small value as suggested by Mr. Subbarama Chetty. These small transactions in the aggregate will amount to a big sum.

Clauses 10 to 13. No remarks.

Clause 14. Mr. K.R. Srinivasa Iyengar suggested that as there would be fluctuations in the money market, it would be advisable that the rate of interest should be fixed by rules. This would avoid the necessity of amending the law every time there was a need for changing the rate of interest. For these reasons, he suggested that the words "at such rates as may be prescribed from time to time by rules issued...." be substituted instead of 9 per cent and 12 per eent in the clause.

Mr. Belur Srinivasa Iyengar thought that this would give room to a lot of complication if the cases had to be decided by courts as they would not know which rate to fix. So it was better to fix the rate in the Act itself.

Mr. P. Subbarama Chetty and Girimaji and B.S. Puttaswami Rao supported the view.

Mr. Mahomed Abbas Khan felt that the rates should be fixed under the Regulation itself and not left to rules.

Mr. M.S. Ramchendra Rao said that the maximum had been prescribed in the Usurious Loans Act and a similar procedure might be

followed in this case also.

The Chairman observed that it was not so. This was the fist time of fixing the rate with a view to implement the provisions of the Usurious Loans Act and this must be done under the Act itself. Only under very rare contingencies would the need arise to revise the rates.

Mr. B.T. Kesavaiengar also was of the view that the rate should be fixed under the Regulation.

Finally it was agreed to retain the clause as it was.

Mr. P. Subbarama Chetty thought that up to Rs. 100 a higher maximum and above that amount a lower maximum rate of interest should be fixed.

Mr. B.S. Puttaswami while agreeing with the principle that for smaller sums a higher maximum should be fixed, thought that only up to Rs. 25 the higher maximum should be fixed and not up to Rs. 100 as suggested by Mr. P.Subbarama Chetty. Otherwise, it would be difficult for the villagers to get any credit.

The Chairman observed that rural credit would not be affected to any extent by having the same rate of interest for all kinds of transactions irrespective of the amount involved and that it would not be possible to fix different rates.

All the members were not unanimous in their view on this point. Some of the members were of the opinion that there should be two different maxima one for amounts below Rs. 25 and the the

other for sums above it.

Mr. Mahomed Abbas Khan suggested that Courts interest for payments already made should be adjusted towards the amount due.

Clause 15. Some of the members were in favour of omitting the compound interest clause altogether. Finally it was decided that the words "with yearly rests" were proposed to be added ~~between~~ after the words "6 per cent per annum".

Clauses 16 to 18. No change.

Clause 19.(5) Adopt.

Clause 19 (6). Omit.

Clause 20(2). Omit.

Re. Limitation of action re. Appeals.

Change the period of six months to one year.

Re. Molestation clause.

This was discussed. Mr. Belur Srinivasa Iyengar took objection to the inclusion of the clause in the bill as it was not in the original bill placed before the Select Committee.

Mr. B.S. Puttaswami thought that the clause might be introduced in a modified form.

The Chairman said that it was ~~incidental~~ ~~taxx~~ on the lines of the clause in the Bengal Bill.

When the opinion of the House was ~~called for~~ invited on the bill, it was found that 7 were in favour and five against. Finally it was decided that a copy of the draft would be circulated to the members for expressing their opinion on it.

The meeting terminated at 5.30 p.m.,

21-3-39

MONEYLENDERS BILL.

Report of the Select Committee (continued.)

CLAUSE 12.

To make the record of the transaction more comprehensive and to include the period fixed for redemption of the pledge, we recommend the addition of a further proviso to sub-section (1) of this section.

12 (1). Every pawn-broker shall ~~he~~ regularly record and maintain an account in which in addition to the particulars contained in the form prescribed under section 9, the following particulars are recorded, namely:-

(a) a full and detailed description of the article or of each of the articles taken in pawn;

Madras D.P.Act section 4 (1) (b)

(b) the time agreed upon for the redemption of the pawn;

(c) the name of the pawnor and where the pawnor is not the owner of the article or of any of the articles pawned, the name and address of the owner thereof.

Sub-section (2) of section 12 may also be recast as follows:-

12 (2) A true copy of the entries in such account signed by the pawn-broker or his duly authorised agent shall be delivered by him to the pawnor at the time of the pawn on tender of the prescribed fee.

CLAUSE 13.

In order to indicate clearly that the inspection should be made only when the accounts are suspected to be improperly kept, we recommend the substitution of the following section for the existing section 13.

13. If an officer specially authorised in this behalf by the Government, has reason to believe that the accounts required to be maintained under this Act by a moneylender are not properly maintained by him, such officer may call upon the moneylender to produce all his books of account for inspection and such moneylender shall be bound to such produce all ~~his~~ books for inspection.

(2) If from such inspection it appears that such moneylender has committed any

offence under this Act, ~~the~~ such officer may cause proceedings to be instituted against him in the court having jurisdiction.

CLUAE 18.

The last three words in 18 (1) "MAY DISALLOW COSTS" may be changed to "MAY DISALLOW THE WHOLE OR ANY PORTION OF /~~the~~ COSTS" to indicate that the courts have discretion to disallow a portion only of the costs [where ~~it~~ where considers the disallowance of the whole of the costs unnecessary.] in suitable cases

(1) ... and" may be substituted for "or otherwise"

CLAUSE 19

We recommend that a right of appeal should be given to a party aggrieved by an order of court under 19(1) and the following may therefore be added as subsection (5) and (6) of 19.

In sub cl 1 of cl 19 omit the words 'or is otherwise' & substitute the word 'and' in line 3

(to be settled at the next meeting)

(Please see 19(5) and (6)

present proposed clause 7 Bengal

CLAUSE 20

To make the punishment for contravening the provisions of this Act less drastic and to indicate that the cancellation or suspension of license is to be done by the registering officer, the court having merely to pass an order to that effect, we recommend the substitution of the following for the existing 20.

20. Whoever makes default in complying with or acts in contravention of any of the provisions of this Act shall, if no specific penalty has been provided in this Act, be punishable.

(a) for the first offence with fine which may extend to Rupees two hundred,

(b) for the second offence with fine which may extend to Rupees five hundred,

and

(c) for any subsequent offence with imprisonment of either description for a term not exceeding one month or with fine which may extend to rupees five hundred or with both;

and on such conviction the court may also order that his registration or license shall be cancelled.

We also consider that a right of appeal or revision as the case may be should be given to the aggrieved party and recommend the addition of the following as sub-section (2) of section 20.

(to be setteled at the next meeting)

plus 1 to 30(2) here

CLAUSE 23. Since the extension of the provisions of Chapters III and IV would not be effective without the extension of the provisions of Chapter V which provide for penalties, we recommend the substitution of the figures and words "IV and V" for the words and figures, "AND IV" in this section.

Enc. to para # 54

MONEYLENDERS BILL.

SELECT COMMITTEE REPORT.

We the members of the Select Committee to which the Mysore Moneylenders Bill was referred have considered the several clauses of the Bill, heard representatives of the important Moneylenders Associations and have now the honor to submit the following report:-

Clause 2(5) - We recommend that the word 'other' may be added between the words 'any' and 'business'.

Chapter 2. - After considerable discussion of the several clauses of this Chapter we are of opinion (Messrs. Rajasahabhushana Diwan Bahadur K.R.Srinivasa Iyengar, Belur Srinivasa Iyengar and G.Girimaji Rao dissenting) that the existing provisions may be retained.

Clause 9.- We recommend that great caution should be observed in applying the provisions of this clause to petty moneylenders in the villages.

Clause 12.- To make the record of the transactions more comprehensive, we recommend that the sub-clause (1) may be recast as follows:-

12(1) Every pawn-broker shall regularly record and maintain an account in which in addition to the particulars contained in the form prescribed under Section 9, the following particulars are recorded, namely:-

(a) a full and detailed description of the article or of each of the articles taken in pawn,

(b) the time agreed upon for the redemption of the pawn,

(c) the name of the pawnor and where the pawnor is not the owner of the article or of any of the articles pawned the name and address of the owner thereof.

We also recommend that sub-clause (2) may be recast as follows:-

12(2). A true copy of the entries in such account signed by the pawn-broker or his duly authorised agent shall be delivered by him to the pawnor at the time of the pawn on tender of the prescribed fee.

Clause 13. As we consider that inspection should be made only when the accounts are suspected to be improperly kept, we recommend the substitution of the following clause for the existing one:-

13(1) If an officer specially authorised in this behalf by the Government has reason to believe that the accounts required to be maintained under this Act by a moneylender are not properly maintained by him, such officer may call upon the moneylender to produce all his books of account for inspection and such moneylender shall be bound to produce all such books.

(2) If from such inspection it appears that such moneylender has committed any offence under this Act, such officer may cause proceedings to be instituted against him in the court having jurisdiction.

Clause 14. While the majority of us are of opinion that the existing provision may be retained, a few were of opinion that the maximum rates of interest should be increased in the case of small loans below a fixed amount in order to avoid strangulation of credit in rural areas.

Clause 15. We recommend that the words 'with yearly rests' may be added after the word 'annum'. We suggest to Government that clauses 14 to 17 should be made applicable to all moneylenders as

as defined in the bill and no exceptional treatment should be given to Banks as regard these clauses.

Clause 18. To indicate that the Courts have discretion to disallow a portion only of the costs in suitable cases,we recommend that the last three words in Clause 18(a) may be changed to 'may disallow the whole or any portion of the costs'.

Clause 19. In sub-clause (1)for the words 'or is otherwise' we recommend the substitution of the word 'and is'.

As we consider that a right of appeal should be given to a party aggrieved by an order of court under clause 19(1), we recommend the addition of the following as sub-clause(5):-

(5) Re-hearings of and appeals from any order under sub-section (1) may be had in the same manner and subject to the same conditions in and subject to which appeals may be had from any order or decision of the same court within its ordinary jurisdiction. In cases cognizable by a court of small causes appeals shall lie to the principal court of original jurisdiction in the division.

Clause 20. To make the punishment for contravening the provisions of this Act less drastic and to indicate that the cancellation or suspension of licence is to be done by the registering officer, the court having merely to pass an order to that effect, we recommend the substitution of the following clause for the existing one:-

20. Whoever makes default in complying with or acts in contravention of any of the provisions of this Act, shall, if no specific penalty has been provided in this Act, be punishable,

(a) for the first offence with fine which may extend to rupees ~~to~~ two hundred,
(b) for the second offence with fine which may extend to rupees five hundred, and

(c) for any subsequent offence with imprisonment of either description for a term not exceeding one month or with fine which may extend to rupees five hundred or with both;

and on such conviction the court may also order that his registration or licence shall be cancelled.

We consider that the Government should be given power to remove a disqualification imposed on a moneylender by a court under clauses 19 or 20. and we therefore recommend the addition of the following clause as clause 21, the existing clause 21 being re-numbered as clause 24.

21. The Government may, at any time on application in the prescribed form accompanied by the prescribed fee, remove a disqualification imposed on a moneylender by a court under Section 19 or Section 20, having regard to the tim which has elapsed since the order and t the circumstances under which it was made or to the time which has elapsed since the conviction and to the nature of the offence.

We also consider that prosecutions for an offence under this Act should no be belated and we therefore recommend the addition of the following clause as clause 22, the existing clause 22 being renumbered as clause 25.

22. No prosecution for an offence under this Act or any rule made thereunder shall be instituted except within one year next after the commission of such offence.

We consider that protection should be given to a debtor against molestatio and we recommend the addition of the following clause as clause 23, the existing clause 23 being renumbered as clause 26.

23. Whoever molests, or abets the molestation of, a debtor for the recovery of a debt owed by him to the creditor shall be punishable with imprisonment of either description for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

Explanation.

For the purpose of this section a person who with intent to cause another person to abstain from doing or to do any act which he has a right to do or do abstain from doing,

(a) obstructs or uses violence or intimidates such other person, or

(b) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, or hinders him in, the use thereof, or

(c) loiters or does any similar act at or near a house or other place where such other person resides or works, or carries on business, or happens to be,

shall be deemed to molest such other person; provided that a person who attends at or near such house or place in order merely to obtain or communicate information or to make a demand for a loan due shall not be deemed to molest.

(2) Notwithstanding anything contained in the Second Schedule to the Code of criminal Procedure an offence under this section shall be cognisable offence as defined in the Code and the rest of the provisions of the Code shall have effect accordingly.

Clause 24. Consequent on the addition of clause 21, we recommend that the word 'and' at the end of (v) of sub-clause (2) may be omitted and the following words and figures added after (vi):-

and (vii) the form of the application for removal of a disqualification under Section 21 and the fee therefor

Clause 26. Since the extension of the provisions of Chapters III and IV would not be effective without the extension of the provisions of Chapter V which provide for penalties, we recommend the substitution of the figures and words

"IV and V" for the words and figures, "and IV" in this clause.

As some additions have been made to the Bill we recommend its republication.

29.4

Sve. Papers 163 & 164

SELECT COMMITTEE REPORT.

We, the Members of the Select Committee to which the Mysore Moneylenders Bill was referred have considered the several clauses of the Bill and have now the honour to submit the following report:-

CHAPTER I.

Short title.- Mr. Belur Srinivasiengar suggested that the ~~may~~ might be changed to " the Mysore Debtors Protection Bill" on the analogy of the Madras Measure which underwent a similar change in the Select Committee. The other Members of the Select Committee were however of opinion that as there are other enactments also which provide for relief to debtors and as the main object of this measure is to control money lending business though incidentallay some provisions afford protection to -- debtors the existing title is therefore quite appropriate and may stand as it is.

Application.- The desirability of giving power under the clause to the Government to exempt any particular moneylender of class of moneylenders from the operation of clauses 14 to 17 of the Bill, was discussed at length The members of the Committee finally agreed that it was not desirable to exempt any moneylender or class of moneylenders from the operation of clauses ~~to~~ 14 to 17 and that this purpose would be best served by recording this view for the consideration of Government when they issued any notification under the clause and no change in the clause itself was necessary.

Mr. Belur Srinivasiengar suggested that the clause may be suitably amended so that the Bill might be made applicable only to transactions of Rs.500/- or under. The other members of the Committee are however of opinion that the whole object of the measure would be frustrated by such a qualification, the transaction in every case ~~to~~

tending to exceed this limit and thereby escape the application of this Bill.

Definitions.

"Money Lender".- It was decided not to alter the definition given in the Bill, since casual transactions which are not intended to be covered by the measure would not come within this definition. The existing definition clearly indicates that some degree of system and continuity in the moneylending business is necessary and implies a repetition of acts, before the provisions of the Bill will apply.

"Money-Lending business".- We recommend that the word "other" may be added between the words "any" and "business

CHAPTER II.

There was considerable discussion on the Provisions of this Chapter. Messrs Belur Srinivasiengar, Dewan Bahadur Rajasabhabhushana K.R.Srinivasiengar and G.Girimaji Rao wanted that these Provisions relating to Registration and licensing of moneylenders might be deleted. They expressed the view that certain restrictions were placed on moneylenders with a view to safeguard the interests of the borrowers and certain penalties were provided for breach of these restrictions and that consequently the provision relating to Registration and licensing served no useful purpose.

Certain other members of the Committee particularly Messrs White, Puttuswamy and R.Channigaramiah wanted that the provisions were not sufficiently effective and that provision should be included for refusing licences to persons who were considered undesirable by the licensing authority. Mr. Abbas Khan diseenting expressed the view that no such discretion should be given to the licensing authority.

After further discussion it was decided to retain the existing provisions, the intention of the Government in introducing the dual system of control of Registration and licensing being, that the provisions relating to -- licensing should be used only in special cases and to particular classes of moneylenders. Messrs. Belur Srinivasiengar, Rajasabhabhushana K.R.Srinivasiengar and G. Girimaji Rao have however dissented from this decision.

Money Lenders Bill.

Suggested Drafts.

Clause 19(5) Appeals.

An appeal shall lie from an order under sub-section (1) to the Court to which appeals ordinarily lie under the Code of Civil Procedure from the Court passing the order: Provided that where the order is passed by a Court of Small Causes, the appeal shall lie to the High Court.

Clause 19(6) Limitation of Appeals.

(a) The period of limitation for appeals under sub-section (5) shall be 90 days, except where the order appeal ed from is made by a Court of Small Causes when the period shall be 30 day

(b) The provisions of the Mysore Limitation Act, 1911, applicable to appeals shall, so far as may be apply to appeals under this section.

Clause 20(2) The provisions of the Code of Criminal Procedure applicable to appeals and revisions shall apply, so far as may be, to orders of conviction passed under sub-section (1).

Additional Provisions.

Power of Govt. to remove disqualification. The Government may, at any time, on application in the prescribed form

accompanied by the prescribed fee, -- remove a disqualification imposed on a moneylender by a court under section 19 or section 20, having regard to the time which has elapsed since the order and the circumstances under which it was made or to the time which has -- elapsed since the conviction and to the nature of the offence.

Bengal Bill Clause 12.A.(2)

Limitation of actions.

A person shall not be convicted of an offence under this Act, unless ~~that~~ the offence was wholly or partly -- committed within <u>one year</u> before the prosecution was commenced; but -- subject as aforesaid, evidence may be taken of acts constituting or contributing to constitute the offence and committed at any previous time:

Taken from English Children's Act, 1908 Section 32. (Slightly modified)

Provided that this section shall not apply to any offence which is a continuous offence.

<u>OR</u>

No prosecution for an offence under this Act or any rule made thereunder shall be instituted except within ~~six~~ One year months next after the commission of such offence.

From City Municipalities Act, 1933. Section 193 Proviso Also Town Municipalities Act, 1933, section 170 proviso.

Molestation.

Punjab Protection of debtors Act, 1937 Sections 3 & 4.

Bombay Bill Clause 38
Bengal Bill 2 38

Whoever molests, or abets the -- molestation of, a debtor for the recovery of a debt owed by him to the creditor shall be punishable with imprisonment of either description which may extend to three months or with fine which may extend to five hundred rupees or with both.

Explanation.

For the purpose of this section a person who with intent to cause another person to ~~obtain~~ abstain. from doing or to do any act which he has a right to do or to abstain from doing,

(a) obstructs or uses violence or intimidates such other person, or

(b) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, or hinders him in, the use thereof, or

(c) loiters or does any similar act at or near a house or other place where such other person resides or works, or carries on business, or happens to be, shall be deemed to molest such other

person; Provided that a person who attends at or near such house or place in order merely to obtain or communicate information or to make a demand for a loan due shall not be deemed to molest.

(2) Notwithstanding anything containe in the Second Schedule to the Code of Criminal Procedure an offence under this section shall be a cognisable offence as defined in the Code and the rest of the provisions of the Code shall have effect accordingly.

Trial of Offences.

Taken from Sugar Industries Safe-guarding Act, 1934 Section 9(1)

No offence made punishable by this Act or by any rule made thereunder shall be tried by a court inferior to that of a Magistrate of the First Class.

Clause 12.

To make the record of the transaction more comprehensive and to include the period fixed for redemption of the pledge, we recommend the addition of a further proviso to sub-~~section~~ clause (1) of this ~~section~~ clause.

12(1). Every pawn-broker shall regularly record and maintain an account in which in addition to the particulars contained in the form prescribed under section 9, the following particulars are recorded, namely:-

(a) a full and detailed description of the article or of each of the article taken in pawn;

Madras D.P.Act Section 4(1)(b)

(b) the time agreed upon for the redemption of the pawn;

(c) the name of the pawnor and where the pawnor is not the owner of the ~~xxx~~ article or of any of the articles pawned, the name and address of the owner thereof.

Sub-~~section~~ clause (2) of ~~section~~ clause 12 may also be recast as follows:-

12(2) A true copy of the entries in such account signed by the pawn-broker or his duly authorised agent shall be delivered by him to the pawnor at the time of the pawn on tender of the -- prescribed fee.

Cluase 13.

In order to indicate clearly that the inspection should be made only when the accounts are suspected to be improperly kept, we recommend the substitution

of the following ~~section~~ clause for the existing ~~section~~ clause 13.

13. If an officer specially authorised in this behalf by the Government, has reason to believe that the accounts required to be maintained under this Act by a moneylender are not properly maintained by him, such officer may call upon the moneylender to produce all his books of account ~~a~~for inspection and such moneylender shall be bound to produce all ~~his~~ such books.

(2) If from such inspection it appears that such moneylender has committed any offence under this Act, such officer may cause proceedings to be instituted against him in the court having jurisdiction.

Clause 18. The last three words in 18(1) "MAY DISALLOW COSTS" may be changed to "MAY DISALLOW THE WHOLE OR ANY PORTION OF THE COSTS" to indicate that the courts have discretion to disallow a portion only of the costs in suitable cases.

Clause 19. The word "and" may be substituted for the words "or is otherwise."

We recommend that a right of appeal should be given to a party aggrieved by an order of court under ~~section~~ clause 19(1) and the following may therefore be added as sub-~~section~~ clauses (5) and (6) of ~~section~~ clause 19.

Clause 19(5) An appeal shall lie from an order under ~~sub-section~~ clause (1) to the court to

which appeals ordinarily lie under the Code of Civil Procedure from the court passing the order:

Provided that where the order is passed by a Court of Small Causes, the appeal shall be to the High Court.

Clause 19(6)

Limitation of appeals.

(a) The period of limitation for -- appeals under sub-section (5) shall be 90 days, except where the order appeal ed from is made by a Court of Small Causes when the period shall be 30 day

(b) The provisions of the Mysore Limitation Act, 1911, applicable to appeals shall, so far as may be apply to appeals under this section.

Clause 20.

To make the punishment for contra vening the provisions of this Act less drastic and to indicate that the cancellation or suspension of licence is to be done by the registering officer, the court having merely to pass an order to that effect, we recommend the substitution of the following clause for the existing clause 20.

20. Whoever makes default in compl ing with or acts in contravention of any of the provisions of this Act shall if no specific penalty has been provided in this Act, be punishable,

(a) for the first offence with fine which may extend to Rupees Two hundred.

(b) for the second offence with fine which may extend to Rupees five hundred, and

(c) for any subsequent offence with imprisonment of either description for a term not exceeding one month or with fine which may extend to rupees five hundred or with both;

and on such conviction the court may also order that this registration o license shall be cancelled."

We also consider tha ight of appeal or revision as the case may be should be given to the aggrieved party and recommend the addition of the follc ing as sub-~~section~~ clause (2) of ~~section~~ clause 20.

Clause 20(2)

The provisions of the Code of Criminal Procedure applicable to appeal and revisions shall apply, so far as may be, to orders of conviction passed under sub-section (1).

Clause 23.

Since the extension of the provisions of Chapters III and IV would not be effective without the extension of the provisions of Chapter V which provide for penalties, we recommend the substitution of the figures and words "IV and V" for the words and figures, "AND IV" in this section.

MONEYLENDERS BILL.

Amendment.

By Mr. D.H.Chandrasekharaiya.

1. Omit clauses 7 and 8.

These clauses provide for licenses to be taken out annually by Moneylenders. The report of the Select Committee states that after considerable discussion; the Committee decided to retain the existing provisions.

As clause 7 stands, only these moneylenders to whom this section is made applicable are required to take out licenses & Not all moneylenders in general.

2. Omit "and licensing" in the heading of Chapter II.

This is incidental to the first amendment.

3. Omit "on payment of the prescribed fee" in clause 11 and "on tender of the prescribed fee" in clause 12.

These relate to payments to be made to a moneylender and a pawnbroker respectively for furnishing statements of account. Payment is provided to compensate the creditor for the trouble he takes to prepare a true and accurate statement of account and furnish it to the debtor, perhaps every six months. The amount of the fee is now specified and is left to the Government to fix it under rules.

4. Insert "not below the rank of an Assistant Commissioner" between the words "an officer" and "specially empowered" in line 1 of amended clause 13 (1)

As the clause stands, no rank is specified for the officer and it is left to Government to appoint officers of any rank they choose. Inserting the words suggested by the amendment would fix the rank once for all.

Mr. Subbarama Chetty's note to the Select Committee report is to the same effect.

5. Insert "either before or" between the words "advanced" and "after" in line 3 of clause 14.

The effect of this amendment would be to give retros-

restrospective effect to this Section regarding rates of interest and would affect contracts entered into before the Act comes into force.

(The matter was discussed in the Select Committee which decided against any such amendment).

6. Substitute 6 and 9 for 9 and 12 respectively in lines 5 and 6 of clause 14.

This amendment seeks to reduce rates of interest permissible under this Act.

Considering the rates prescribed in the British Indian Provinces, the rates fixed compare very favourably and in fact the report of the Select Committee states that a few members were of opinion that the maximum rates of interest should be increased in the case of small loans below a fixed amount in order to avoid strangulation of credit in rural areas.

7. Insert "either before or" between the words "made" and "after" in line 3 of clause 15.

This is similar to amendment 5 but with regard to compound interest.

8. Substitute 4½ for 6 in line 2 of clause 15.

This seeks to reduce the maximum rate of compound interest allowed under the Act.

9. Add after the word "loan" in clause 14 the following words, "and 5% in the case of a loan taken on pawn".

This seeks to reduce the interest chargeable on loans taken on pawn to 5%. On the other hand(the discussions in the Select Committee and) the evidence of representatives of moneylending associations disclosed that a higher percentage should be allowed on pawn transactions as they were usually for small sums and were in most cases never redeemed at all.

10. Omit the following words from the amended Bill:-

(i) to (ix)

These are incidental to the first amendment for dele-

deletion of all provisions relating to ~~my~~ licences and to the third amendment for deletion of provisions regarding payment of fee for statements of account.

11. Insert the following words between "order" and "to be sent" in line 4 of clause 19 (2):- "made against ~~the~~ a moneylender".

This seems to be unnecessary. The order contemplated is one made under 19 (1) and this is obviously an order made against a moneylender.

Mr. Belur Srinivasiengar.

1. Clause 14 be amended by providing 12% interest for secured debts and 24% for unsecured debts.

This seeks to increase the maximum rates of interest just as Mr. Chandrasekharaiya's amendment seeks to reduce the rates. This is probably a very strong argument for retaining the existing rates which is a via media.

2. Clasue 12 to be amended by adding ~~the~~ a proviso -

"Provided that the amount secured by pawning is not rupees 20 and below".

By this amendment where the pawn is for Rs.20 or below, no statement of account need be furnished.

(This matter was discussed at length in the Select Committee and it was felt that even small transactions required to be protected as most of the persons resorting to pawn brokers were illiterate)

There will be practical difficulties if any limit is fixed and transactions over Rs.20/- will be split up into a large number of small transactions in order to get the benefit of this proviso.

3. Section 20(c) be amended by putting the word "simple" instead of "either description";

Instead of "and" put "or" before "on such ~~condition~~ conviction".

It is only the third transgression that is punishable under 20 (c) and the penalty of imprisonment of either

description may not perhaps be unduly harsh. The Select Committee has in fact reduced the severity of the sentence.

The latter amendment does not appear proper. It is only after conviction that the court may order cancellation of the registration or licence. The word "or" does not convey this idea. If the word "or" is meant to indicate that the cancellation is to be an alternative punishment, the whole clause will have to be recast.

In any view, this additional penalty is entirely discretionary and not compulsory.

4. Add "and after enquiry" in clause 13 (1) between the word "Government" and "has reason to believe".

Even as the clause stands, it is open to the officer to hold an enquiry. A specific provision to that effect in the Act itself will involve framing of elaborate rules as to how an enquiry is to be conducted and perhaps to provide for appeals against irregular decisions, etc., This may be unnecessary as the officer has only to decide whether inspection is called for or not.

MORE PROTECTION FOR DEBTORS

MONEY-LENDERS' BILL

More Clauses Disposed Of Quickly

(From Our Cuttack Office)

CUTTACK, Feb. 16.

Good progress was made in the Orissa Money-lenders' Bill in the Legislative Assemoly to-day. Clauses 12 to 17 were adopted without much discussion. Clauses 12 and 13 lay down that a court may at the time of passing a decree or on the application of the judgment-debtor in respect of a mortgage suit order that the payment of the decreed amount should be made by instalments.

Clause 14 empowers the court to estimate the value of the judgment-debtor's property, the proceeds of the sale of which it considers will be sufficient to satisfy the decree.

Clause 15 states that such a portion of the judgment-debtor's property only as will satisfy the decree should be sold.

Clause 18 stated that the registration certificate of a registered money-lender might be cancelled for a period not exceeding five years in case he was found guilty of fraud.

Mr. Brojo Sundar Das submitted that the period of five years in this penal clause was too severe Mr. Jadumoni Mangraj, on behalf of Government, agreed to reduce the period of punishment to three years. Mr. Brojo Sundar Das' amendment for reducing the period of cancellation of registration certificate for a period not exceeding three years was passed and Clause 18, as amended, was adopted.

Clause 19 states that whenever any money-lender or his agent wilfully contravenes any of the provisions of clause 7, which makes it obligatory for a registered money-lender to maintain proper accounts of transactions and to give receipts for pawned articles or money received, he should be punishable with fine not exceeding five hundred rupees.

Mr. V. K. V. Raju moved an amendment for substuting fifty rupees for five hundred rupees. The Premier, in opposing the amendment, stated that efforts had been made to shield money-lenders where it had been possible to do so. Money-lenders were respectable persons and if inspite of their respectability they wilfully abused any provisions of section 7 they would themselves invite punishment.

Division was challenged and the amendment was lost by 28 to 5 votes and clause 19 was adopted.

Clasuses 20 and 21 were passed without any discussion. Clause 20 states that if any money-lenders or his agent takes from a debtor at the time of advancing a loan or deducts out of the principal of such a loan any premium of other exactions, he should be punishable with a fine not exceeding twice the amount of such premium or exaction.

Mr. Brojosundar Das moved an amendment for deletion of clause 22, which stated that the contract of a loan for the payment of an amount due on such a loan at any place outside the province of Orissa should to that extent be void. In moving the amendment, Mr. Das stated that it would be difficult for a large number of people of Orissa now living outside the province to secure loans if this clause was retained. This would prevent money-lenders to execute their decrees in Orissa for loans contracted outside Orissa and thus it would be difficult for Oriyas living outside Orissa to secure loans.

Mr. Jadumoni Mangraj, Parliamentary Secretary, in opposing, stated that moveable and immoveable property of thousands of Oriya labourers working outside Orissa had been sold away by skilful money-lenders. This clause sought to give protection to those unfortunate debtors.

Messrs. V. K. V. Raju and Rangalal Modi supported the amendment.

Replying, Mr. Brojosundar Das said that the people of this province were borrowing money outside the province to carry on trade here. He could not support the resrtiction of foreign capital as this province was not rich enough as to reject foreign capital. He could not subscribe to the view of the Parliamentary secretary that people of other provinces were ruining their own people.

The Premier, replying, stated that Indian capital was not foreign. It would be an unfortunate day if any body thought that capital outside the province was foreign. He submitted no one would be sorry if it was possible to stop foreign capital. The Premier submitted that the scope of the bill had been misconceived and misunderstood. The Government of Bihar had made all contracts outside the province void. This bill did not go so far. It made a contract for payment of money outside the province as void.

After lunch the Assembly rejected Mr. Brojosundar Las' amendment for deletion of clause 22. On the Premier's request clause 22 was not put to vote and kept in abeyance so that some agreement might be reached between Government and the Opposition. The remaining five clauses of the bill were then passed without discussion. Mr. Brojosundar Das moved an amendment for adding another clause to the effect that Mahomedans should be excluded from the operations of this law.

The House then adjourned for lunch

Amrita Bazaar Patrika
18th February 1939

Adjournment Ruled Out

PALESTINE ISSUE

—oOo—

Money-Lenders' Bill's Progress

(From Our Own Correspondent)

CUTTACK, Feb. 15.

When the Assembly met after lunch to-day, the Hon'ble Speaker ruled the adjournment motion of Sj. Nabakrishna Choudhury to consider the situation created in Palestine as the result of the policy followed by the British Government in suppressing the Arabs out of order.

In giving his ruling the Hon'ble Mr. Mukunda Prosad Das stated:—

"Reading the terms of the motion as they are I have no doubt that it is out of order. In the first place it is not the concern of the Provincial Government and so Rule 48 (d) stands in the way. I realise that this matter has created great indignation in the minds of a large section of people of the Province, particularly the Muslims. Personally I have great sympathy for the object of the motion and it is no doubt a matter of great public importance. But the question is whether the House or the Government has got any responsibility in the matter and it is not the intention of the mover to draw the attention of the Government for commission or mission of anything which they should have or should not have done. In that view of the matter I have no other alternative but to rule it out."

The Assembly passed to-day Clause 9 of the Orissa Money Lenders' Bill. Discussion of Clauses 10 and 11 was held in abeyance in order to arrive at an agreement between the Opposition and the Government about the proposed amendments to those two clauses. The solitary champion of the cause of the money-lenders in the Assembly was Mr. V. K. V. Raju, who with great patience, moved amendment after amendment to different clauses of the Bill. He got his supporter in Mr. Rangalal Modi.

The House took up discussion of Clause 12 when the Assembly rose for the day.

Clause 9 of the Bill seeks to fix interest at 9 per cent. simple per annum on secured loans and 12 per cent simple per annum on unsecured loans.

Mr. V. K. V. Raju moved an amendment for the deletion of the word 'simple' from the Clause.

Mr. Jadumoni Mangraj, Parliamentary Secretary, in opposing the amendment said that by taking away the word 'simple' the money-lenders would be given an opportunity to charge compound interests on loans. The Governments of Bihar and Assam had taken effective measures to stop compound interest. The objects of this Bill would be frustrated if any loop hole was left for the money-lenders to charge compound interest.

Mr. Brojo Sundar Das in opposing the amendment said that if the word 'simple' was taken away not only compound interest would be charged but the money lenders would get opportunities of also pounding the heads of borrowers. Further the relation between the lenders and debtors should be maintained on the basis of mutual help. This would be hampered if the word 'simple' was taken away from the clause.

The Hon'ble Mr. Biswanath Das in opposing the amendment stated that the Western system of money-lending had brought in a number of complicated systems in the money-lending business. It was the aim of the Bill to restore the Hindu system of charging interests.

Division was challenged and the amendment was lost by 2 to 27 votes. Mr. Radha Mohan Panda not having

DEBT LEGISLATION AND CREDIT

RESERVE BANK'S CONCERN

FEB 14 1939

(FROM OUR CORRESPONDENT.)

CALCUTTA, (By Mail).

The Reserve Bank of India has, it is understood, issued a circular letter to all Provincial Governments in India drawing their attention to the effects of the legislative measures adopted to relieve agricultural indebtedness on the credit agencies of the country in general and the joint stock banks in particular and administering a mild warning about the serious consequences which such legislation may have on the development of sound banking in the country.

A certain amount of unnecessary difficulty, it is pointed out, is being caused by such legislation to the joint stock banks by the diversity of the policy of Provincial Governments in regard to them.

In some provinces, the dealings of joint stock banks with agriculturist debtors have been subjected to the same conditions as those of ordinary village money-lenders. A few have gone further and extended the scope of measures to regulate the transactions of money-lenders to cover all the transactions of joint stock banks, whether made with agriculturists or non-agriculturists. Nor has any distinction been made between scheduled banks and non-scheduled banks.

VARIED RESTRICTIONS

The restrictions imposed differ from province to province, but they are many and varied; and include registration of money-lenders, maintenance of regular accounts in prescribed forms, furnishing statements of accounts to debtors at regular intervals, fixing maximum rates of interest, prohibition of compound interest, payment of debt by instalments and stay of execution of decrees for a specified period. If some of these Acts are strictly construed joint stock banks will have to register themselves as money-lenders and to keep accounts in forms prescribed for money-lenders in addition to their usual accounts. This seems clearly both unnecessary and unsatisfactory.

The Reserve Bank has in practice found that many banks who have had dealings with agriculturists in the past are now anxious to call in their loans as soon as possible and restrict fresh business. Provisions like payment of debt by instalments and stay of execution of decrees have frozen part of the assets of some banks especially in Bihar and the U. P. and some banks are experiencing embarrassment in meeting their obligations in consequence.

EXEMPTIONS FOR JOINT STOCK BANKS

The Reserve Bank is afraid that the continuance of such restrictions may seriously handicap the development of sound banking in the country and is of opinion that joint stock banks should generally be exempted from the provisions of legislation dealing with money-lenders and rural indebtedness.

This may be kept in the M file containing the Money Lenders Bill.

Under Secretary,
Protection.

14/2/39

14.2

Effect of Debt Legislation: Reserve Bank's Warning

In a recent circular to the Provincial Governments in India, the Reserve Bank of India has sounded a note of warning about the serious consequences which the recent legislative measures adopted by them to relieve agricultural indebtedness may have on the credit agencies of the country, in general, and the joint-stock banks, in particular—in short, on the development of sound banking in the country as a whole. The circular points out that a certain amount of unnecessary difficulty is being caused by such legislation, especially because of the diversity of the policy pursued by the different Provincial Governments.

In some Provinces, it states, "the dealings of joint-stock banks with agriculturist debtors have been subjected to the same conditions as those of ordinary village money-lenders. A few have gone further and extended the scope of measures to regulate the transactions of money-lenders to cover all the transactions of joint-stock banks, whether made with agriculturists or non-agriculturists. Nor has any distinction been made between scheduled banks and non-scheduled banks. The restrictions imposed differ from Province to Province, but they are many and varied; and include registration of money-lenders, maintenance of regular accounts in prescribed forms, furnishing statements of accounts to debtors at regular intervals, fixing maximum rates of interest, prohibition of compound interest, payment of debt by instalments, stay of execution of decrees for specified periods, etc. If some of these Acts, the Reserve Bank of India, points out, are strictly construed, joint-stock banks will have to register themselves as money-lenders and to keep accounts in forms prescribed for money-lenders in addition to their usual accounts. This seems clearly both unnecessary and unsatisfactory.

Restrictions on Banks Not Justified

The presumable object of provincial legislation to regulate money-lending and to relieve indebtedness it is said, is to protect the cultivator and the small man from the malpractices of the village money-lender and to prevent the latter exploiting their need and ignorance. Such measures of protection should not be required against joint-stock banks. Their business is already regulated by law. Their accounts have to be regularly maintained and audited. The activities of scheduled banks are further watched and guided by the Reserve Bank of India. There does not seem, therefore, to be justification for subjecting their activities to restrictions which will have the effect of frightening them away from taking any part in agricultural finance, a field in which they already find it precarious to venture.

As a matter of fact, the Reserve Bank has in practice found that many banks who have had dealing with agriculturists in the past are now anxious to call in their loans as soon as possible and restrict fresh business. Provisions like the payment of debt by instalments, stay of execution of decrees, etc., have frozen part of the assets of some banks, specially in Bihar and the U.P., and some such banks are experiencing embarrassment in meeting their obligations in consequence.

The Reserve Bank is afraid that the continuance of such restrictions may seriously handicap the development of sound banking in the country. It is generally recognised that legislation for the relief of existing indebtedness however necessary it may be, has the inevitable effect of restricting rural credit. The regulation of money-lenders is also likely to have a similar effect. In these circumstances, joint-stock banks, subject as they are to all-India regulation and control should be encouraged to deal with agriculturists and thus fill the gap which would otherwise result from money-lending legislation rather than be deterred by the imposition of unsuitable restrictions. The Reserve Bank is, therefore, of opinion that joint stock banks should generally be exempted from the provisions of legislation dealing with money-lenders and rural indebtedness. Whenever opportunity has offered itself they have advised Provinces individually on these lines, but, in view of the seriousness of the problem as disclosed by recent experience and the desirability of the Provinces following a uniform policy in this respect, the present circular has been forwarded to the different Provincial Governments with the suggestion that it would be desirable to consider the advisability of excluding joint-stock banks from the application of measures of debt legislation.

In bringing this important point to the notice of the Provincial Governments, the Reserve Bank has well exercised its function as an institution organised to regulate credit on sound and healthy lines. At the same time the Reserve Bank's circular brings home the need for a uniform, if not an all-India, regulation. Such will not only place all joint-stock banks on the same footing, but will also help a freer flow of credit for agricultural purposes which is of paramount importance to-day.

Clause 21.- The provisions of the Agriculturists' Relief Regulation are not affected by the provisions in this Regulation which are supplementary to the former.

COMPARATIVE STATEMENT OF THE IMPORTANT PROVISIONS IN THE SEVERAL PROVINCIAL ACTS.

Mysore Bill	Bengal Money Lenders Act	Madras Debtors Protection Act.	Bihar Bill	Bombay Bill
2(1) "Bank" means a company carrying on the business of banking and registered under any of the enactments relating to companies for the time being in force in the United Kingdom or in British India or in Mysore or incorporated by the Act of Parliament or by Royal Charter or Letters Patent or by any act of the Indian Legislatures or by any Act in Mysore.	No such definition.	2(1) "Bank" means a company carrying on the business of banking and -- (a) registered under any of the enactments relating to companies for the time being in force in the United Kingdom or in any of the British Dominions or in any of the Colonies or Dependencies of the United Kingdom or in British India or in any State in India, or, (b) incorporated by an Act of Parliament or by Royal Charter or Letters Patent or by any Act of the Indian Legislatures.	No such definition	2(1) "Bank" means a Banking Company as defined in Section 277 F. of the Indian Companies Act 1913 whether incorporated in or outside British India.
2(2) "Company" means a company registered under any of the enactments relating to companies for the time being in force in the United Kingdom or in British India or in Mysore or incorporated by an Act of Parliament or by Royal Charter or Letters Patent and includes Life Assurance Companies (Act, 1912 applies but shall not include "Private Company" as defined in the Indian Companies Act, 1913 or the Mysore Companies Act, 1917.	Not defined. Indian Life Assurance companies	2(2) "Company" means a company (a) registered under any of the enactments relating to companies for the time being in force in the United Kingdom or in any of the British Dominions or in any of the Colonies or Dependencies of the United Kingdom or in British India or in any State in India, or, (b) incorporated by an Act of Parliament or by Royal Charter or Letters Patent or by any Act of the Indian Legislatures, and includes a life Insurance company to which the Indian Life Insurance Companies Act, 1912, applies.	Not Defined	2(3) "Company" means a company as defined in the Indian companies Act 1913, or formed in pursuance of an Act of Parliament or by a Royal Charter or Letters Patent or by the Act of the Legislatures of a British possession.
2(3) "Co-operative Society" means a society registered under the provisions of the Mysore Co-operative Societies Act, 1917.				2(5) "Co-operative Society" means a Society registered or deemed to have been registered under Bombay Co-operative Societies Act, 1925 or the Co-operative Societies Act, 1912 or

Mysore Bill.	Bengal Act,	Madras Act	Bihar Bill	Bombay Bill.
	Not defined.	2(3) "Co-operative Society" means a society registered or deemed to be registered under the Madras Co-operative societies Act,1932.	Not Defined	any Act of any other provincial Legilstature relating to such society.
2(5) "Money lender" means any person who grants a loan and shall include the legal representative and the successor in interest whether by inheritance, assignment or otherwise of the person who advanced the loan.(Definition in Part III is same as in Madras) vide s.10.	2(1) "Money Lender" means any person who grants a loan of money.	2(5) "Creditor" means a person including a pawn broker, who in the regular course of business advances a loan and includes - the legal representative and - the successor in interest whether by inheritance, assignment or otherwise of the person who advanced the loan.	2(c) "Money lender" means a person who advances a loan, whether in the regular course of business or otherwise and includes a - pawn broker.	2(10) "Money lender" means an individual or an undivided Hindu family or an - unincorporated body of - individuals or body corporate incorporated under - any law in British India, or any place outside British India, or stands to any such body corporate in the relation of a subsidiary body who or which-- (i) carries on the business of money lending in the province; or (ii) has his or its principal place of such business in the province; and includes a pawn broker.
2(6) "Interest" does not include any sum lawfully charged in accordance with the provisions of this Act by a money lender for or on account of costs, - charges or expenses, but save as aforesaid, includes any amount by whatsoever name called in excess of the princ pla paid or payable to the money lender in consideration of or otherwise in respect of a loan.	Not defined.	2(6) "Interest" does not include any sum lawfully charged in accordance with the provisions of this Act by a creditor for or on account of costs, charges or expenses, but save as aforesaid, includes any amount, by whatsoever name called in excess of the principal, paid or payable to a creditor in consideration of or otherwise in - respect of a loan.	2(a) "Interest" means rate of interest and includes the return to be made over and above what has actually but whether the same is charged of sought to be recovered specifically by way of interest or otherwise.	2(6) "Interest" includes any sum of by whatsoever name called, in excess of the principal paid or payable to a money lender in consideration of or otherwise in respect of a loan but does not include any sum lawfully charged in accordance with the provisions of this Act or any other law for the time being in force by a money lender for or on account of costs, charges or expense

Mysore Bill	Bengal Act	Madras Act	Bihar Bill	Bombay Bill.
2(7) "Loan" means an advance in nature of money or in kind at interest and shall include any transaction which the court finds to be in substance a loan. (Definition of "loan" in part III is the same as in Madras). vide S.10.	Not defined.	2(7) "Loan" means an advance of money or in kind at interest being for a sum, or being of a value, of less than five hundred rupees at a time in any one transaction and includes any transaction which the court finds in substance to amount to such an advance, but does not include (i) a deposit of money or other property in a Government Post Office Savings Bank, or in a Bank, [illegible] in a Company, or with a co-operative Society. (ii) an advance made by a bank, a company or a dooperative society; (iii) an advance made by Government or by any person authorised by Government to make advances in their behalf, or by any local authority; (iv) an advance made by any person bonafide carrying on any business not having for its primary object the lending of such money, if such loan is advanced in the regular course of such business; (v) an advance made by a landlord	2(b) "Loan" means an advance whether of money or in kind on interest made by a money lender and shall include a bond bearing interest executed in respect of past liability and any transaction which in substance is a loan; Explanation:- A bond bearing interest executed in respect of goods taken on credit constitute a loan.	2(9) "Loan" means an advance, whether of money or in kind, and includes any transaction which is in substance a loan, but does not include. (a) a deposit of money or other property in a Government Post Offic Bank or in a Company or with a Co-operative Society. (b) a loan to, or by, or a deposit with any society or association registered under the societies Registration Act, 1860, or any other enactment relating to a public, religious or charitabal object; (c) a loan advanced by Government or by any local authority authorised by Government; (d) a loan advanced by a co-operative soceity (e) an advance made on the basis of a negotiable Instruments Act, 1881 other than a promissory note.

Mysore Bill	Bengal Act	Madras Act	Bihar Bill	Bombay Bill
		to his tenant, by a lessor to his lessee, by one partner in cultivation or ~~customer~~ cosharer to another for the purpose of carrying on agriculture; (vi) an advance made on the basis of a negotiable instrument as defined in the Negotiable Instruments Act, 1881, other than a prommissory note;		29. Notwithstanding any thing contained in any ~~loan~~ law for the time being in force, no agreement between a money lender and a debtor for payment of interest at the rate exceeding 9 per cent per annum in the case of a secured loan and 12 per cent per annum in the case of an unsecured loan shall be valid and no court shall in any suit to which this Act applies award interest exceeding the said rates.
3. Where in any proceedings in respect of money ~~but~~ lent by a moneylander after the commencement of this Act or in respect of any agreement or security made or taken after the commencement of this Act, it is found that the interest charged exceeds the rate of eighteen per cent per annum in the case of a secured loan or twenty four per cent per annum in the case of an unsecured loan or that there is a stipulation for rests at intervals of less than six months the court shall unless the contrary is proved, presume for the purposes of section 3 of the usurious Loans Act, 1923, that the interest charged is excessive and that the transaction was substantially unfair, but this provision shall be without prejudice to the powers of the	3. Where in any suit in respect of any money ~~but~~ lent by a money lender after the commencement of the usurious Loans Act, 1918 it is found that the interest charged exceeds the rate of ₹5% per annum in the case of a secured loan or 25% per annum in the case of an unsecured loan or that there is a stipulation for rests at intervals of less than six months, the court ~~shall~~ shall until the contrary is proved, presume for the purpose of S. 3 of the usurious Loans Act, 1918, that the interest charged is excessive and that the transaction was harsh and unconscionable and was substantially unfair, but this provision shall be ~~xxxxxxxxx~~ without prejudice to the powers of the court under the said section where the court	No such provision. Since omitted by Act IV of 1936 on 12th June of the Bengal Legislature rate of interest at 9 & 15%	11. Notwithstanding any thing contained in any other ~~case~~ law or in anything having the force of law no court shall in any suit brought in respect of a loan advanced after the commencement of this Act, pass a decree for interest at rate exceeding nine per cent per annum in the case of a secured loan and 12 per centum per annum in the case of an unsecured loan.	

Mysore Bill	Bengal Act	Madras Act	Bihar Bill	Bombay Bill.
the court under the said section where the court is satisfied that the interest charged through not exceeding eighteen per cent per annum or twenty ~~four~~ four per cent per annum as the case may be, is excessive.	is satisfied that the interest charged though not exceeding 15% per annum or 25% per annum as the case may be, is excessive.			
4. No moneylender shall recover by suit interest of any kind at a rate exceeding ten per cent per annum in respect of any loan made after the commencement of this Actunder a contract which provided for the payment of compound interest.	5. No money lender shall recover by suit interest of any kind at a rate exceeding ten per cent per annum in respect of any loan made after the commencement of this Act under a contract which provides for the payment of compound interest.	No such Provision.	No such provision.	30. Any agreement made after the commencement of this Act for the loan of money by a money lender shall be illegal in so far as it provides directly or indirectly for the payment of compound interest provided that provision may be made in any such agreement that if default is made in the payment upon the due date of any sum payable to the money lender under the contract whether in respect of principal or interest or both, the money lender shall, subject to the provisions of Section 29, be entitled to charge simple interest on that sum from the date of the default until the sum is paid, at a rate not exceeding the rate payable in respect of the principal apart from any default and (any interest so charged shall not be reckone (for the purposes of the Act as part of the (interest charged in respect of the loan.

Mysore Bill	Bengal Act	Madras Act	Bihar Bill	Bombay Bill
5. No court shall, in respect of any loan made after the commencement of this Act decree on account of arrears of interest a sum greater than the principal of the loan remaining due.	4. Notwithstanding anything in any other Act, where in any suit in respect of any money lent by a money lender before the commencement of this Act it is found that the arrears of interest amount to a sum greater than the principal of the loan, the court, unless it is satisfied that the money lender had reasonable grounds for not enforcing his claim earlier shall limit the amount of such interest recoverable in the suit to an amount equal to the principal of the loan.	No such provision	No such provision vide S. 9(10)	27. Notwithstanding anything contained in any agreement or any law, for the time being in force, no court shall in respect of any loan advanced before before or after this Act comes into force, decree on account of arrears of interest a sum greater than the principal of the original loan.
6(1) Every money-lender, on demand made in the prescribed form by a debtor by registered post and on the tendering him of the prescribed fees for expenses, shall supply such debtor with such particulars as may be prescribed concerning any loan made by him to the debtor on account of which any sum is due from the debtor. (2) Any money lender who sends by registered post to the debtor, at the address mentioned in the form of demand, the particulars referred to in such section (1) shall be presumed to have complied with the demand made under that sub-section.	7(1) Every money-lender on demand made in the prescribed form by a debtor by registered post, shall supply such particulars as may be prescribed concerning any loan made by him to the debtor on account of which any sum is due from the debtor. (2) A money lender who sends by registered post to the debtor at the address mentioned in the form of demand the particulars referred to in such section (1) shall be presumed to have complied with the demand made under that sub-section. (3) Where a money lender has complied with a demand made by a debtor under sub-section (1) the debtor shall not be entitled to make a further demand under	3(1) Every Creditor shall ..... (c) on requsition in writing made by the debtor, furnish to the debtor or, if he so requires, to any person mentioned by him in that behalf in his requisition, a statement of account signed by himself or his agent showing the particulars referred to in clause (a) and also the amount which remains outstanding on account of the principal and of interest and charge such sum as the Local government may prescribe	8(1) Every money lender shall in respect of every loan advanced by him after the commencement of this Act and every transaction made by him after the commencement of this Act relating to any loan advanced by him before before the commencement of this Act. ..... (c) give to the debtor or his agent, within seven days of advancing the loan, a copy of the entries recorded under such clauses	23(2) In respect of any particular loan whether advanced before or after the commencement of this Act, the money lender shall on any reasonable demand in writing being made by the debtor at any time during the period when the loan or any part thereof has not been repaid, and on payment of the prescribed fee supply to the debtor or requires to any person specified in that behalf in the demand a statement in the language in which this accounts of the money

Mysore Bill	Bengal Act	Madras Act	Bihar Bill	Bombay Bill
(3) When a moneylender has complied with a demand made by a debtor under such section (1) the debtor shall not be entitled to make a further demand under the said subscription in respect of the same loan within a period of six months from the date of such compliance. (4) A person to whom a statement of account has been supplied under such sub-section (1) shall not be bound to acknowledge or deny its correctness and his failure to object to the correctness of the account shall not by itself be deemed to be an admission of the correctness of such account.	the said sub section in respect of the same loan within a period of six months from the date of such compliance.	be as fee therefor. .... (3) A person to whom a statement of account has been furnished under clause (c) of such section (1) and who fails to object to the correctness of the account shall not by such failure alone be deemed to have admitted the correctness of such account.	(i) & (iii) of clause (a), and (d) furnish to the debtor or his agent at least once in every calender year a statement of account signed by himself or his agent showing the balance or amount that may be outstanding against such debtor on account of the principal and interest at the time of furnishing the said statement of account and the amount of every payment received by the money lender in respect of the loan and the date of such payment, during the period to which the statement relates. (2) A person to whom a copy of entries in an account has been given under clause (c) of sub section (1) or a statement of account has been furnished under clause (d) of subsection (1) and who fails to object to the correctness of the account or statement of account shall not by such failure alone be deemed to have admitted the correctness of such account or statement of account	money lender are ordinarily kept signed by the money lender or his agent and showing all or any of the particulars specified in sub-section(1). Such statement shall be supplied in the English language if the debtor pays the money lender a fee of Rs.2 or in any other recognised language of the province if the debtor pay a fee of Rs.4. 24. A debtor to whom a statement of accounts has been furnished under section 23 shall not be bound to acknowledge or deny its correctness and his failure to do so shall not by itself be deemed to be an admission of the correctness of the account.
7. Every moneylender shall on demand at the time of a payment give to the debtor or his agent a receipt for the sum paid by him duly signed and if necessary stamped.	No such provision.	3(1)(a) Every dreditor shall give to the debtor or his agent, a receipt for every sum paid by him, duly signed and, if necessary, stamped at the time of such payment.		22(2)(b) Every money lender shall give to the debtor a plain and complete receipt for all payments made on account of any such loan within a reasonable time after such payments are made.

Mysore Bill	Bengal Act	Madras Act	Bihar Bill	Bombay Bill.
			8(1) Every moneylender shall -- give to the debtor or his agent a receipt for every sum paid by or on behalf of, the debtor, duly signed and, if necessary stamped at the time of such payment.	
8(1) If a money lender to whom a demand has been made and the prescribed fee for expenses has been tendered in accordance with the provisions of sub-sections of (1) of section 6 fails without reasonable excuse to comply therewith within a month from the date of the service of the demand or tender of fee whichever is later, interest shall not be chargeable in respect of the loan concerning which the demand was made for so long as the default continues.	8. If a money lender to whom a demand has been made in accordance with the provision of sub-section (1) of section 7 fails without reasonable excuse to comply therewith within a month from the date of the service of the demand, interest shall not be chargeable in respect of the loan concerning which the demand was made for so long as the default continues	6(2) If a creditor fails to give to the debtor or his agent a receipt as required by clause (b) of subsection (1) of section 3 or to furnish on a requisition made under clause (c) of that subsection, a statement of account as required thereinxxx within one month after such requisition has been made ..... he shall not be entitled to any interest for the period of the default.	20. Any money lender who contravenes any of the provisions of section 8 shall be punishable with fine not exceeding 100 rupees.	25, Notwithstanding anything contained in any law for the time being in force in any suit to which this Act applies-- (a) a court shall before deciding the claim on merits frame and decide the issue whether the money - lender has complied with the provisions of sections 22 or 23; (b) If the court finds that the provisions of section 22 or section 23 have not been complied with by the money lender it may, if the plaintiff's claim is established in whole or in part, disallow the whole or any portion of the interest found due, as may seem reasonable to it in the circumstances of the case and may disallow costs; or in computing the amount of interest due upon the loan, may exclude
(2) Notwithstanding anything contained in any other enactment in force for the time being, any money lender found guilty of non compliance with the provisions contained in 6(1) shall be punishable with a fine which may extend to two hundred rupees.				

Mysore Bill	Bengal Act	Madras Act	Bihar Bill	Bombay Bill
				any period for which the money lender omitted to comply with the provisions of either of the said sections.
9(1) Where a debtor has sent to a money lender by postal ~~money~~ money order any sum of money due from him to the money lender in respect of a loan and the money lender has refused to accept the same, the debtor may apply in the prescribed manner to the lowest Civil ~~Court~~ court having jurisdiction over the place where he resides for permission to deposit the said sum in court to the account of the moneylender and the court on receiving the prescribed fee from the debtor shall keep the said sum in deposit in the prescribed manner to the money lender.	9(1) Where a debtor has sent to a money lender by ppstal money order any sum of money due from him to the money lender in respect of a loan and the money lender has refused to accept the same the debtor may apply in the prescribed manner to the lowest civil court having jurisdication over the place where he resides for permission to deposit the said sum in court to the account of the money lender and the court on receiving the prescribed fee from the debtor shall keep the said sum in deposit and shall send a notice of the deposit in the prescribd manner to the money lender.	No such Provision	No such Provision.	36(1) At any time after a debtor has sent to a money lender any sum of money due from him to the ~~money due from him to the~~ money lender in respect of a loan by way of principal, interest or both, if the money lender refuses to accept the sum, the debtor may apply to the competent court to deposit the said sum in court to the account of the money lender.
(2) If a money lender ~~accepts~~ accepts money sent in the manner specified in ~~such~~ sub-section (1) by a debtor or withdraws money deposited under the said sub-section he shall not be bound by any statement made by the debtor in remitting or depositing the money.	(2) If a money lender accepts money sent in the manner specified in sub-section (1) by a debtor or withdraws money deposited under the said subsection he shall not be bound by any statement made by the debtor in remitting or depositing the money.			(2) The court shall thereupon cause written notice of the deposit to be secured on the money lender, and the money lender may on presenting a petition (verified in manner prescribed by law for the verification of plaints) stating the sum then due in respect of the loan and his willingness to accept the money so deposited, ~~remains~~ receive the same.
				(3) If the money lender withdraws the sum deposited by a debtor under ~~such~~ sub-section (1), he shall not be bound by any statement made by the debtor in depositing the same.

Mysore Bill	Bengal A ct	Madras Act	Bihar Bill	Bombay Bill
				(4) When the debtor has deposited in the court under this section the sum due in respect of the loan, if such money is in payment of the principal or any part thereof, the interest on such principal or part shall notwithstanding any agreement between the parties cease from the date of the service of notice on the moneylender under sub-section (2) (5) Nothing in this section shall affect the operation of the provisions of section 83 and 84 of the Transfer of Property Act, 1882 in regard to loans to which the said provisions apply.
11. Every moneylender shall register his name and the address of his place of business before such authority and in such manner as the Government may prescribe and shall communicate to the said authority, any change in his place of business from time to time. Any such person ceasing to carry on the business of money lending may on application to the said authority get his name struck off from the Register.	No such Provision.	No Such Provision	5.(1) Any moneylender may apply to be registered as a money lender by an application made to the Sub Registrar within whose jurisdiction the principal place of business of such moneylender or a branch thereof is situated and the Sub Registrars shall, on receipt of such an application and on the payment of the prescribed registration ~~and a~~ grant a registration certificate in the prescribed form to the money lender. (2) Every application made under sub section (1) shall	9(1) Every money lender shall annually before such date as may be prescribed make an application in the prescribed form for the grant of a licence to the Registrar of ~~such~~ the area within the limits of which he intends to carry on the business of money lending such application shall contain the following particulars namely:- × × × (2) The application shall be in writing and shall be signed by the individual or etc.,

Mysore Bill	Bengal Act	Madras Act	Bihar Bill	Bombay Bill
12(1) Every money lender shall regularly record and maintain in addition to such accounts as he may ordinarily maintain an account of transactions relating to loans for each debtor separately and in such form as the Government may prescribe provided that the government shall prescribe the forms, language, scrippt and numerals in which the accounts are to be recorded and maintained; (2) Notwithstanding anything contained in the Indian Evidence Act, 1872 a copy of the account prescribed under sub section (1) ~~with~~ in such manner as may be prescribed shall be admissible in evidence in the same manner and to the same extent as the original account.	No Such Provision.	3(1) Every creditor shall (a) regularly record and maintain or cause to be recorded and maintained, an account showing for each debtor separately. (i) the dates of the loan the amount of the principal of the loan ; and (ii) the amount of every payment received by the creditor in respect of the ~~wat~~ loan and the date of such payment.	be in writing and shal contain the prescribed particulars. 8(1) Every money lender shall in respect of every loan advanced by him after the commencement of this Act and every transaction made by him after the commencement of this Act relating to any loan advanced by him before the commencement of this Act~~~~ (a) regularly record and maintain or cause to be recorded or maintained an account showing for each debtor-- (i) the date of the loan the amount of the principal of the loan and the rates per cent per annum of interest charged on the loan; (ii) the amount of every payment received by the money lender in respect of the loan the date of such payment; and (iii) any other terms which may be agreed on between the money lender and the debtor.	22(1) Every money lender shall keep and maintain at least a cash book and a ledger in such form as may be prescribed and shall write the same in regular course of business.
13. Any debtor in whose name ~~an~~ account is kept by any money lender shall be entitled on demand to receive from such money lender a pass book and to require from time to time that his account up				

Mysore Bill	al Act	Madras Act	Bihar Bill	Bombay Bill
TO ____ be written there and authenticated by the signature or mark of the said money lender. Any entry so made in any such pass book for any payment made to the money lender shall be deemed to be equivalent for the purpose of section 7 to the grant of a receipt for the amount so entered.	No such provision	No such provision	No such provision	No such provision.
14(1) Notwithstanding anything contained in any other enactment in force for the time being any money lender found guilty of non compliance with the provision as to registration contained in section 11 shall be punishable with a fine which may extend to Rs.200/- for a second or subsequent conviction for non compliance with the provision as to registration contained in section 11 he shall be liable to be punished with imprisonment of either description for a term not exceeding one month or with fine not exceeding Rs.500 or with both. (2) (a) In any suit or proceeding relating to a loan the court shall, if necessary before deciding the claim on the merits frame and decide the issue, whether the money lender has complied with the provisions of sub sections (1) of section 12.	8. If a money lender to whom a demand has been made in accordance with the provisions of such section (1) of section 7 fails without reasonable excuse to comply therewith within a month from the date of the service of the demand, interest shall not be chargeable in respect of the loan concerning which the demand was made for so long as the demand continues.	6(2) If a creditor fails to give to the debtor or his agent a receipt as required by clause (b) of sub section (1) of section 3 or to furnish on a requisition made under clause (c) of that sub section a statement of account as required therein within one month after such requisition has been made he shall not be entitled to any interest for the period of the default.	20. Any money lender who contravenes any of the provisions of section 8 shall be punishable with fine not exceeding Rs.200/-.	anything contained in any law for the time being in force in any suit to which this Act applies:-- (a) A court shall, before deciding the claim on merits frame and decide the issue whether the money lender has complied with the provisions of section 22 or 23. (b) if the court finds that the provisions of section 22 or section 23 have not been complied with by the money lender, it may, if the plaintiff's claim is established, in whole or in part disallow, the whole or any portion of the interest found due as may seem reasonable to it in the circumstances of the case and may disallow costs, or in computing the amount of interest due upon the loan may exclude any period for which the money lender omitted to comply with the provisions of either of the said sections.

Mysore Bill.	Bengal Act	Madras Act	Behar Bill.	Bombay Bill.
(b) If the court finds that the provisions of sub section (1) of s.12 have not been complied with by the money lender the court shall, if the plaintiff's claim is established in whole or in part, disallow the whole or in portion of the interest found due as may seem reasonable to the court in the circumstances of the case and shall disallow costs. (c) If a money lender to whom a demand has been made under section 13 fails without reasonable excuse to comply therewith within one month after the demand has been made, he shall not so long as the default continues, be entitled to sue for or recover any sum due under the contract or account of principal or interest and interest shall not be chargeable in respect of the period of default.				Provided that if the money lender has, after the time specified in the said sections, given the receipt or furnished the account as the case may be, and he satisfies the court that he had sufficient cause for not furnishing it earlier, the court may notwithstanding such omission, include any such period or periods for the purpose of computing the interest.
15. A registration shall cease to have effect on the expiration of three years from the date of registration but may be renewed from time to time in such measures as may be prescribed and if renewed shall have effect for 3 years from the date of the renewal.	No such provision	No such provision	7. A registration certificate granted under section 5 shall, unless sooner cancelled under section 19, be in force for four years from the date on which it is granted.	11. Every licence shall be granted annually but shall expire on the 31st day of march in each year immediately following the date on which it was granted.
16(1) No person to whom this part has been made applicable under sub section (2) of Section 1. whether carrying on business alone or as a partner in a firm shall do money lending business except under the authority and subject to the terms and conditions of a licence granted under this Act,	-------	No such provisions	---- ------	8. No money lender shall carry on the business of money lending except in the area for which he has been granted a licence and except in accordance with the terms and conditions of such licence. 13(1) After the expiry of six months from the date on which this Act com

Mysore Bill.	Bengal Act	Madras Act	Bihar Bill.	Bombay Bill.
(b) If the court finds that the provisions of sub section (1) of s.12 have not been complied with by the money lender the court shall, if the plaintiff's claim is established in whole or in part, disallow the whole or in portion of the interest found due as may seem reasonable to the court in the circumstances of the case and x shall disallow costs. (c) If a money lender to whom a demand has been made under section 13 fails without reasonable excuse to comply therewith within one month after the demand has been made, he shall not so long as the default continues, be ~~within~~ entitled to sue for or recover any sum due under the contract or account of principal or ~~without~~ interest and interest shall not be chargeable in respect of the period of default.				Provided that if the money lender has, after the time specified in t said sections, given the receipt or furnished the account as the ca may be, and he satisfies the court that he had sufficient cause for not furnishing it earlier, the cou may notwithstanding such omission, include any such period or periods for the purpose of computing the interest.
15. A registration shall cease to have effect on the expiration of three years from the date of registration but may be renewed from time to time in such measures as may be prescribed and if renewed shall have effect for 3 years from the date of the renewal.	No such provision	No such provision	7. A registration certificate granted under section 5 shall, unless sooner cancelled under section 19, be in force for four years from the date on which it is granted.	11. Every licence shall be granted annually but shall expire on the 31st day of march in each year immediately following the date on which it was granted.
16(1) No person to whom this part x has been made applicable under sub section (2) of Section 1, whether carrying on business alone or as a partner ~~with~~ in a firm shall do money lending business except under the authority and subject to the terms and conditions of a licence granted under this Act,	-------	No such provisions	---- ------	8. No money lender shall carry on the business of money lending ~~x~~ except in the area for which he has been granted a licence and except in accordance with the terms and conditions of such licence. 13(1) After the expiry of six mont from the date on which this Act com

Mysore Bill	Bengal Act.	Madras Act.	Bihar Bill	Bombay Bill.
(2) whenever in contravention of the above sub section or of any rule or order made under this Act or of any license obtained under this Act carries on business as a money lender shall be liable to a fine not exceeding five hundred rupees, provided that on a second or subsequent conviction for a similar offence the offender shall be liable to be punished with imprisonment of either description for a term not exceeding 3 months or with fine not exceeding 1000 Rs. or with both.				into force, not court shall pass a decree in favour of a money lender in any suit to which this Act applies unless the court is satisfied that at the ~~issue~~ time when the loan or a part of the loan to which the suit relates was advanc the money lender held on licence. 39. Whoever makes default in comp ing with or acts in contravention of any provision of this Act, sha if no specific penalty is provid in this Act is punishable (a) for the first offence with fine which may extend to Rs.200 (b) for the second offence with fine which may be extend to Rs.5((c) for any subsequent offence to rigorous imprisonment which may extend to 3 months.
17(1) The Government or such authority as may be empowered by the Government in this behalf may, after giving the person an opportunity of being heard, (i) cancel or suspend any license granted under this Act and (ii) declare any person disqualified for obtaining a licence under this Act either permenantly or for such period as it thinks fit. (2) Any court by which any person is convicted of an offence against any provision of this Act or of any such rule made thereunder shall, if such person holds a licence	No such provision	No such provision.	19. Where in any suit brought in respect of a loan by a registered money lender or in respect of any security taken for a loan by a registered money lender, the court is of opinion that the registered money lender has been guilty of fraud or of any contravention of the provisions of this Act, or is otherwise unfit to carry on the business of money lending the court shall make a report to the collector and the collector may, on receipt of such report and ~~xxxxx~~ after such enquiry	17(1)(i) The court passing an order of conviction against a money lender for an offence under this Act, or (ii) the court trying a suit to which this Act applies or (iii) a comeptent court in a proceeding under this Act, if such court is satisfied that such money lender has committed such contravention of the provisions of this Act or the rules as would in its opinion make him unfit to carry on the business of money lending. (a) may order that the licence held by such money lender be suspended for such time as the

Mysore Bill	Bengal Act	Madras Act	Bihar Bill	Bombay Bill.
license under this Act, cause articulars of the conviction tobe endorsed thereon and may in respect of such person and licence, if any, exercise like powers as are conferred by sub section(1) on the government. (3)Where a court reopens a transaction of a money lender under section 3 of the Pecurious Loans Act, 1923, the court may if such person holds a licence under this Act, cause such particulars as it thinks fit desirable to be endorsed on such licence. (4) A copy of every order of cancellation suspension or disqualification made under this section in respect of the licence or the holder of the licence shall be endorsed on the licence and a copy of every endorsement in accordance with the provisions of this section shall be sent to the authority by which the licence has been granted. (5) Every holder of a licence shall on being called upon to do so produce his licence before any authority acting under this section. (6) The person whose licence is cancelled or suspended in accordance with the provisions of this section shall, during the period for which such order of cancellation has effect or during the period of suspension as the case may be, be disified from obtaining a licence.			as he considers necessary caneel the registration certificate granted to the money lenders.	the court may think fit, or cancelled, (b) may also, if the court thinks fit, declare any such money lender or if any such money lender is an undivided family, the manager or any adul copartners thereof, or if such money lender is a body corporat or unincorporated, any person responsible for the management of business of money lending carried on by such money lender be disqualified from holding a licence for such time as the court may think fit; (c) shall cause the particulars of the conviction and of any order made by the court under this section to be endorsed on the licence held by the money lender convicted or by any othe person affected by the order and shall cause copies of its order to be sent to the Registe by whom the licence was granted for the purpose of entering suc particulars in the Register. Provided that where a licence he held by any money lender is sus pended or cancelled or any mone lender is disqualified from holding a licence under this section, he may whether or not he is a person convicted, appea against such order to the court to which an appeal ordinarily lies from the decision of the court passing the order; and th court which passed the order or

Mysore Bill	Bengal Act	Madras Act.	Bihar Bill	Bombay Bill.
section 11 shall be sent by the creditor to the debtor, the forms to be used and the details to be incorporated therein; (v) the procedure for registration under section 10 and the renewal of registration under section 14 and the fee therefor (vi) the form of the licence that has to be taken out by the money lender and any appropriate fee n payable therefor and the procedure to be followed in granting the licence the terms and conditions subject to which it may be granted and the periods for which it shall remain in force. (vii) the details to be noted under section 18.		entries in a pawnbroker's account to be delivered by the pawn broker to the pawner under sub section (2 of section 4.		(d) the language, form, manner of the statement of accounts and the details to be included therein under section 23 and the sum of money to be paid for a copy of a document. (e) the fee and the sum of expens to be paid under section 23; and (f) any other matter which is or may be prescribed under this Act or any matter for which there is provision or insufficient provision in the Act and for which provision is in the opinion of the provincial government necessary for giving effect to the provisio of this Act. (3) Rules made under this section shall be subject to the condition of previous publication in the official gazette.

Mysore Bill.	Bengal Act	Madras Act	Bihar Bill	Bombay Bill.
				or the court of appeal may if it thinks fit, pending the appeal, stay the operation of the order under this section.
18. No contract of loan between a money lender and a borrower entered into after the commencement of this Act shall be enforeable unless a note or memorandum in writing containing such particulars of the contract as may be prescribed by rules, be made and signed personally by the borrower.	------- No	Such	Provision	----------
19(1) The Government may make rules for carrying out the purposes of this Act (2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters viz., (i) the form of demand by a debtor the particulars to be supplied by a money lender and the fee payable by a debtor under Section 6(1); (ii) the procedure for deposit in court under s.8(1) (iii) the forms, language, script and numerals to be used in the accounts required to be kept under clause (b) of sub section (1) of section 11; (iv) prescribing the manner in which the account required by clause (c) of sub section (1) of section	10(1) The local government may make rules for carrying out the purposes of this Act. (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters viz., (i) the form of a demand, the particulars to be supplied by a money lender under sub section (1) of section 7; and (ii) the manner in which an application for deposit is to be made under sub section (1) of S.9, the fees to be paid for such application and the manner in which a notice of the deposit is to be sent to the money lender.	8(1) The local government may make rules not inconsistent with this Act for the purpose of carrying out all or any of its purposes. (2) In particular and without prejudice to the generality of the foregoing power the Local government may make rules prescribing. (a) the sum which may be charged as fee for a statement of account furnished under clause (c) of sub section 3 (b) the manner in which a copy of the account shall be certified for the purpose of sub section (2) of section 3 and (c) the sum which may be charged for a copy of the	27. The provincial government may make rules prescribing: (a) the form of the register mentioned in sub section (1) of S.4 and the particulars to be contained in such register. (b) the form of the registration certificate mentioned in sub section (1) of section 5. (c) the particulars to be contained in an application made under sub section (1) of section 5, and (d) the registration fee to be paid on applications made under such section (1) of s. 5.	42(1) the Provincial Governmen may make rules for carrying ou the purposes of this Act. (2) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for the following matters:- (a) the form of the registers under section 7; (b) the form of the applicatio for a license and the further particulars to be included the in under section 9. (c) the form and conditions of this license the manner of pay ment of licence duty and the procedure for a summary inquir under section 10;

MONEY LENDERS BILL.

NOTES.

Rates of Interest.

The rates of interest fixed in the British Indian Provinces are as follows:-

	Secured debt.	Unsecured debt.
Madras. ..	9	15
Bengal. ..	~~15~~ 8	25 10
Bihar. ..	9	12
Bombay. ..	9	12
Central Provinces.	9	13

It will be observed that the rates fixed in the Bill compares favourably with the above. They are neither too high nor too low.

Should Registration and Licensing be both provided for?

It is intended that all professional Money Lenders should be registered while licensing will be applied only to those classes whose dealings require greater control. There will be additional -- opportunity for examining the dealings of the Money Lender. Licensing is annual and the Money Lender who is required to be licensed will more frequently come under the scrutiny of the Registrar.

Validity of transactions charged with excessive interest not coming before Courts

Validity of transactions charged with excessive interest not coming before Court:-

Rates of interest relate to those in excess of which Courts cannot decree. It is only when the matter comes before a Court that the validity of the transactions can be scrutinised and then the Court can judge if the interest charged is -- excessive or not. If the matter does not come to Court it will be difficult to enforce the rule about excessive interest.

Is registration necessary?

That is the only way by which the business can be controlled. The Registrar will then be able to inspect and check whether accounts are properly kept up and receipts are regularly given. If there is no registration it will not be possible to regulate and control the business and the very object of the Bill will not be -- attained.

Registrar's inspection.

This will not interfere with the business of an honest Money Lender. -- Accounts of Banks and Co-operative institutions are regularly audited. They may also be inspected by departmental agencies.

Reopening up of accounts.

Though this has not been specifically provided for in the Bill, this can

can be done in every case in which the Court finds the interest charged is -- excessive. Any interest charged in excess of the rates fixed is declared to be -- excessive interest for the purpose of Section 3 of the Usurious Loans Act.

Penalty for non-contravention.

This is made an offence and made punishable with fine for first offence and even with imprisonment for a second offence A similar provision is found in the Bihar Act, Bombay Bill, the C.P. Act and the Punjab Relief of indebtedness Act. If this penal provision is not made it may not be possible to enforce the provision relating to registration. In Bihar an additional safeguard is provided so that a Money Lende cannot file a suit unless he is registered.

Molestation.

No provision is made in the Bill as in Bombay as the ordinary criminal law -- seems to be sufficient. Otherwise even sending an agent for demanding payment may be complained against as molestation.

Provision against executing Bond for higher amount than what is actually advanced.

It will be difficult to adduce any independent evidence to prove such a transaction. Further one of the grounds for

for cancellation of licence is fraud and such transactions may be brought under that.

The provisions of the Civil
are not much departed
borrowed from the
English Act

Table of the Bill —
Money Lenders' Bill is
borrowed from Eng' & Natal

Registration & Licensing —
Not much. Vide English Act
Increases for special classes
Powers & inspection by Registrar
not essential
~~Language~~

Accounts

Language of accounts
Defendants — Clause 10 — Defendant
dealing a mere [illegible] for debt
Generally
Interest — rate of
Clause 14 — Discharge
Any fraud vitiates
the [illegible]

Rate of interest —
further [illegible]

Speech of the Bill
does not [illegible]
least one case to [illegible]
practically the Civil Act
Civil is different.
All the rules [illegible]
The Bill like the Civil
[illegible]

~~Fundamental question~~
The difference between
~~fundamental~~ question of
~~what is~~ = some believe in
"the efficacy of law";
Others believe that it may
be necessary, even if not true
in the sense or to the extent
the law stipulates, that
citizens behave as if the
provisions of the bill
Select committee ... as if
with all the provisions
whatever the shape that the
bill assumes, it [illegible] be
Members — see p. 43 of
the Bill Doc...
We must also remember
in mind

< The question is whether
the people really to
[illegible] or whether
not. & whether [illegible]
should be effective
the assist.
It is no use trying
to do more than
[illegible] Min

Day Book enteries . Date Vesakh Vadi First 1996, Wednesday April 5th 1939.

5195/1[illegible]- Balance brought forward

5000/-/- Credited to Dounty Venkat--samaiha & sons, received towards over-draw account Hasty Padabnabhaiya

2500/-/- Credited K.Nagappa K. Chan--dar Shekarappa, received towards over-draw account Hasty Appaih

5000/-/- Credited Hundi realization account under mentioned hundies matured this day details:-

2500/- One hundi drawn by N. Rudraih dated 5th January 1939 at 90 days sight for which amount received in cash Hasty Vasdev chetty

2500/- One Hundi drawn by V Akamber chetty on 5th Jaxxxxy -nuary 1939 at 90 days s -ight the party did not pay the amount hence transfered to personal A/C of the party.

5000/- Total

800/- Credited M.Rudrappa A/C received towards todays due for Rs 1800/- Hasty Rudrappa.

81/- Credited Hudavan account interest for Rs3600/ hundis for 3 months at 9 P.C per annum details as below.

27/- Interest Received from B.R.Gopalaih setty

27/- Interest received for Rs1200/-from Krishna flour Mills.

27/- Interest received from R.Papanna and son for Rs1200/.

8i/-

5/6/- Credited Hundi Stamp A/C Hundis purchased for 3600/-

8580-5-0 Total.

2500/- Debited V.Akambar chetty and sons one hundi for Rs2500/drawn by you on 5th January 1939 at 90 days sight matured today. This Hundi you did not pay Today hence debited to your A/C

1800/- Debited M.Rudrappa two Hundis for Rs 1800/drawn by you on 20th January 1939at 75 days sight matured for payment today in the Imperial Bank Of India. You did not pay the hundis in the Imperial Bank of India, we pa[illegible] and debited to your account.

3600/- Debited Hundi Purchased A/C purchased three hundis from the undermentioned Hundis parties at 9 p.c per annum dated 5th April 1939 at 90day sight.

1200/ One hundi from B.R.Gopa -laih chetty amount remi -tted hasty Ramchetty.

1200/ One hundi from Krishna flour mills hasty Veerba drappa.

1200/ One Hundi from R.Papann and son Hasty Muni swamy chetty.

3600/.

1200/- Debited P.V.Ramchandra Gupta paid Rs1200/ on ondemand drawn by you in our favour dated 5th April 1939 interes at 0-14-0 annas P.C.per mensem.

2000/- Debited V.Sampangi Ramaih Oi merchant paid Rs2000/ in over draw account Hasty Ramswamy.

7000/- Debited Talam Subaraya Setty account paid Rs7000/ in over draw account hasty Vasdevsett

18100-0-0 Total

10480-5-0 Cash Balance at the closin -g of the day.

28580-5-0 Total

Appendix F G—1]

SUBJECT.....

.....

.....

Copy

Section Legs.

File No. 14-37

Serial No. 1

Diary No. of letter replied to.. .....

No. P 1147/Gen. 1.

To

The Registrar, High Court.

General and Revenue Secretariat

( )

the *193*

Sir,

Date of issue 25/8/37

I am directed to forward herewith a copy the draft Bill to provide for more effective control of Money lending in Mysore and to request you to favour Govt. with the opinion of the High Court about the advisability of introducing such a measure in the State

Signed by Sd. A.S.R.

I have the.

Sd/- A.S.R.
23/8

For Genl. Secy

List of enclosures.... ....

Copied by .....

Examined by .....

~~Mys-H-32-2.~~

(Copy)

High Court of Mysore,

Bangalore, 24th November 1937.

D./No. No. 151/37-38

From

T. Shamiengar, Esqr., B.A., B.L.,

Registrar, High Court of Mysore.

To

Rao. Venkatesa Iyengar, Esqr., Rao. B.,

General Secretary to the Govt. of Mysore,

Bangalore.

Sir,

With reference to your letter No. P 1147, of 25.8.37 forwarding a copy of the draft-bill to provide for more effective control of money lending in Mysore and requesting the opinion of the High Court about the advisability of introducing such a measure in the State, I am directed to forward herewith the minutes of the Chief Justice and other Judges of the High Court on the Bill.

~~[illegible]~~ I have etc

~~[illegible]~~ Sd/- T. Shamiengar

~~[illegible]~~ Registrar.

MINUTES OF THE JUDGES :-

17-9-1937. Ujadharmaprasakta
Mr. K. Shankaranarayana Rao,
Offg. Chief Justice.

Legislation of this kind appears to be necessary in view of the fact that money-lending transactions are being carried on by many unscrupulous persons, against whom there is no kind of check whatever, and several ignorant and needy persons are ruined - before there is any chance of redemption. A proper system of registration and control and insistence upon maintaining proper accounts etc. is likely to prove a very wholesome check on the present questionable methods in which such transactions are carried on by many "Sharks".

In Section 3 which provides for a presumption that the interest charged is excessive - the rate of interest for ~~secured~~ Secured loans, viz. 18 % appears to be fa: too high; it might be cut down to 12 likewise 24 % in the case of unsecured loans to 18 %.

Section 9 (1) I do not think that it is necessary to provide for pay-ment into Court of any money which on being duly sent by money order by the debtor is refused bythe money-lender,

and it appears to be sufficient to specify that on such tender, the running of interest on such amount shall cease. Provision for deposit in Court entails not only unnecessary hardship on the debtor as he has to move from his village to the nearest Court having jurisdiction at much personal inconvenience and expense, but also further expense because work of this kind to be done in a Court involves seeking the assistance of a lawyer or some other person conversant with such work and stay near the Court-house till the work is done. There is also the further question whether the amount is to be received in cash by the Court or a receipt order for payment into a Treasury is to be issued, in which latter event there is further trouble and delay. And there is no adequate compensation for all this trouble and expense of money and of time. Further persons who deal with this class of money-lenders are very poor agriculturist or petty officials, and their transactions being also usually for small amounts, the amounts involved would be comparatively small. From all these points of view a provision for payment into Court appears to me to be impracticable and not quite desirable, not to speak of the addition of quite a large volume of work to the Courts concerned.

S. 9(2). I do not quite understand the significance of this sub-section and it should be made more clear. Assuming that the statement made by the debtor is that the amount remitted by money order or deposited in Court should be appropriated by the creditor towards principal only or partly towards principal and partly towards interest, is it the intention of this sub-section that the creditor is not bound by such a statement and that the creditor is entitled to appropriate it in any manner he likes ? That would be denying the debtor a privilege which he possesses under the existing law.

S. 12(2) & 14(2)(a). When a proper and correct account is, as a matter of fact, maintained, there can be no objection to a true extract of such an account being admitted by the Court in evidence without insisting upon the production of the original book of account. But is it likely that the rules will in all cases and by all money-lenders be observed and that proper accounts would be maintained ? In most suits of this kind suits are decreed ex parte and if there is no proper scrutiny by a Court at the proper stage, by insisting upon a comparison of the extract of accounts with the original, there is every danger of

the unfortunate debtor concerned who may not care to contest the suit being seriously prejudiced.

S. 14(2)(a). This relates to a general examination of the money-lender's accounts; but what is really required in a case in which a suit is filed against a debtor is that the account relating to this debtor is scrutinized. Such a general clause appears to be unnecessary and it appears to be sufficient to amalgamate (a) and (b) together and enact "If in any suit or proceeding relating to a loan the Court finds that the provisions of.... (the rest of clause (b)). The intention of the Legislature in enacting 14 (2) (a) and (b) being that the debtor's interests should be safeguarded, it appears to be quite necessary to require that the copy of the account referred to in 12(2) is compared with the original account book and certified to be correct. If adequate provision is made in the rules to be framed in this behalf there would be no difficulty. Otherwise such cases will have to be dealt with like any other suit on accounts.

In 14(2)(b) the word "may" appears to be preferable to "shall" in

both

both places, as discretion in both the matters is properly left to the Court concerned.

S.18. I do not quite understand the purpose of this section. That will ~~properly~~ probably be made explicit in the rules proposed to be framed

---

7-10-1937. Mr. Justice C. Abdul Ghani.-

A measure like the one proposed is very desirable. Verbal and other alterations may be made, after legislation is taken up. The Chief* Justice has pointed out certain apparent defects and they may be remedied. It is certainly not desirable to permit deposit of money in Courts. The definitions of "money-lender" and "Loan" have to be suitably amended. It is not desirable to have two definitions of the same term in two parts of the same Regulation. The object of Parts I and II compared with III and IV are apparent, as the latter are intended to apply to only particular class of money-lenders. This may be achieved otherwise than by defining the same terms differently in different parts. It does not appear to be neces-

* Mr Justice K. Shankaranarayana Rao.

sary

necessary to define Banks, Companies, Co-operative Society, etc. in this Regulation and these terms do not appear to play any part in the body of the Regulation itself. The general principles may be accepted while the proper drafting has to be carefully scrutinized. Pawnbrokers have to come in also.

30-10-1937. Mr. Justice A.R. Nagesvara Iyer.-

Legislation on the general lines proposed seems to be very necessary in this State.

The provision enabling a debtor to deposit the money in Court is meant in his interests so that he might, when the money is available, put it in Court and be rid of the liability, as otherwise he might spend it away and later find it difficult to discharge his liability. This is on the lines of Section 83 of the Transfer of Property Regulation and I see no objection to have it in the proposed Regulation.

In the interests of the ignorant and illiterate persons who may have transactions with unscrupulous moneylenders, it would be advantageous if the

Government

Government reserve powers to scrutinize and audit the accounts of the money-lenders.

14-11-1937. The Chief Justice.-

I do not wish to express any opinion on the policy of the Bill. But I agree with Abdul Ghani J. that the drafting of the Bill requires careful scrutiny.

"Money-lender" as defined in Part I of the Bill includes not only professional money-lenders but every illitera villager who lends a few rupees to a neighbour. That being so, the provisions of Sections 6 and 8 of the Bill appear to far too stringent: they may work very unfairly in depriving an honest lender of his proper remedy and exposing him to a serious penalty.

I agree generally with Shankaranarayana Rao J.'s criticisms of Section 9.

Section 12 (2) appears to me dangerous and may deter Courts from examining original accounts, the appearance of which and the method of making entries

in

in which are often of great assistance in arriving at a decision.

T. Shaminga
Registrar
X

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

General and Revenue Secretariat,

Dated, Bangalore, the 9th March 1939.

10

No.P. 4814-28

OFFICIAL MEMORANDUM.

A meeting of the Select Committee appointed to consider the Money Lenders Bill will be held in the Legislative Council Hall, Public Offices Buildings, Bangalore, at 1.P.M. on ~~Monday~~ Tuesday, the 21st March 1939.

By Order,

10.3

Secretary to the Committee.

To

SREENIVASA MANDIRAM CHARITIES

12

(FOUNDED BY JANOPAKARI A. GOPALACHARLU IN 1883)

PRESIDENT:
BELUR SREENIVASA IYENGAR. B.A.,B.L.
Advocate & Municipal Councillor
Member, Legislative Council

SREENIVASA MANDIRAM ROAD
BANGALORE CITY

Ref. No. .....

Encl. .....

Date 193

Raja Mantina Burma.
Nyapathi Madhavarao Esq. B.A.
Chairman
Select Committee

I am Enclosing herewith
application signed by Bankers
in Rly. 7. nominating messrs
Bonnichalt Hanak chand Bafna
to give Evidence before Select
committee re- Moneylenders'

Bill. on 8/4/39.

I request that one of them maybe selected by your good self.

Both of them are members of the Sanitary Board and ex Bowan Lall - a leader of the community is a candidate for Legislature Council & in the Ensuing Bye Election.

I beg to remain,

Your most obedient servant

Behari Srivastava
member Sch. Committee

14

Telegrams: HARAKCHAND. Ry. Station: OORGAUM.

H. Harakchand Bafnah,
BANKER & MERCHANT.

ROBERTSONPET,
KOLAR GOLD FIELDS.

Date 10th March 19 39.

Belur Srinivasa Iyangar Esq., M.L.C.
Advocate,
Ghandi Nagar
BANGALORE-CITM.

Dear Sir,

As instructed by you I am herein enclosing the letter authority signed by the money lenders of K.G.F.Please act and Oblige,

Yours Sincerl
H Harakchand
Bafnah

Kolar Gold Fields.

Robertsonpet

10th March 39

From.

The Money Lenders of

The Kolar Gold Fields.

To.

The President,

Select Committee,

(Money lLenders Bill)

Dear Sir,

We the money lenders of the Kolar Gold Fields area hereby appoint (1) Messrs R.B. Bhavarlal, Banker, Andersonpet and (2) H.Harakchand Bapnah, Banker, Avenue Road, Robertsonpet to give evidence and to represent us before the select Committee.

R. Jawanthraj

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. PS 218 - 32 Dated, Bangalore, 3. 4. 1939

Official Memorandum.

A meeting of the Select Committee appointed to consider the Mysore Moneylenders Bill will be held in the Chambers of the First Member of Council, Public Offices Buildings, Bangalore at 11 a.m. on Saturday the 8th April 1939.

By Order,

Secretary to the Committee.

To

The Members of the S.C
P.A. to First Member
L.C. Office
O.B. for kindly arranging seats & lunch.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

Office of the Secretary,
Representative Assembly and Legislative Council,

Bangalore, Dated, 3rd April 193 9.

No. PS263-6.

From

The Secretary,
Representative Assembly and Legislative Council.

To

Sir,

I am directed to state that the Select Committee appointed to consider the Mysore Moneylenders Bill, will be glad to hear the views of your Association on the Provisions of the Bill through a representative or a Counsel duly instructed by your Association on the 8th April 1939 at 1 P.M. in the Chambers of the First Member of Council, Public Office Buildings, Bangalore.

I have the honor to be,

Sir,

Your most obedient servant,

3.4

Secretary to the Committee.

1. Seth Mangoomal Lunidhasingh
(Sued Sikarpur Bankers)

2. Ramnarayan Chellaram
Multani Merchants

3. Harakchand Bafna
Jain merchant K.G.F.

4. Hafiz Yar Mahomed Khan
Pathan Moneylender.

TELEPHONE No. 2098

TELEGRAM PURSHOTAM

SETH MANGOOMAL LUNDASING

BANKERS

AVENUE ROAD

Bangalore City

SECRETARY 6 APR 1939

18

6th April '39

The Secretary to the Select Committee,
on the Mysore Money Lender's Bill,
Bangalore.

Dear Sir,

I have received your letter No.P5263- 6 of the 3rd inst. and thank you for inviting our Association to send a representative to tender evidence on the Mysore Money Lenders' Bill before your committee on the 8th inst.

I beg to inform you that Seth Sadhuram Mohandas will represent our Association for the above purpose. Mr.Ramnarayan Chellaram will accompany him as advisor.

Yours faithfully,
for The Sind Shikarpur Bankers'
Association.

President.

Telephone No. 2159

RAMNARAYAN BHAGWANDAS & Co.,

BANGALORE CITY.

SOLE INDENTORS
FOR WEST COAST AND
C. & M. STATION
FOR
THE CLOTH MILLS OF
MESSRS. BINNY & CO.,
(MADRAS) LTD.

8th April 1939.

BRANCHES:
112, COMMERCIAL STREET,
BANGALORE CANTT.
TELEPHONE No. 110

RAJA STREET,
COIMBATORE.

Secretary to The Select Committee
on The Moneylenders' Bill,
Bangalore.

Dear Sir,

I am in receipt of your letter No.P5263-6 of the 3rd inst. I have communicated your invitation to the Multani Moneylenders for sending a representative to the Select Committee. I am requested by them to inform you that Mr.B.Vasudevamurthi, Advocate, will represent them at the Select Committee meeting today. He will be accompanied by Seth Madhavdas Balchand as advisor.

Yours Faithfully,

Ramnarayan Bhagwandas

G 483/38 · 20

G. Girimaji Rao,
M. L. C.
ಜಿ. ಗಿರಿಮಾಜಿ ರಾವ್, ಎಂ.ಎಲ್.ಸಿ.
ಕೋಲಾರ.

KOLAR.

Date 17th April 1939

17/4

Dear Sir,

I am sending herewith the copy of the draft clause for incorporation into the ~~Bill~~ Bill with my approval.

Yours sincerely,
G. Girimaji Rao

To,

A. Sundara Rajarao Esqre B.A., B.L.,
Secretary,
Mysore, Legislature Council,
Bangalore

olestation.

Whoever molests, or abets the molestation of, a debtor for the recovery of a debt owed by him to the creditor shall be punishable with imprisonment of either description which may extend to three months or with fine which may extend to five hundred rupees or with both.

Explanation.- For the purpose of this section a person who with intent to cause another person to abstain from doing or to do any act which he has a right to do or to abstain from doing.

(a) obstructs or uses violence or intimidates such other person, or

(b) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, or hinders him in, the use thereof, or

(c) loiters or does any similar act at or near a house or other place where such other person resides or works, or carries on busines or happens to be,

shall be deemed to molest such other person: Provided that a person who attends at or near such house or place in order merely to obtain or communicate information or to make a demand for a loan due shall not be deemed to molest.

(2) Notwithstanding anything contained in the Second Schedule to the Code of Criminal Procedure an offence under this section shall be a cognisable offence as defined in the Code and the rest of the provisions of the Code shall have effect accordingly.

The Punjab Protection of Debtors Act,1937.
The Bombay Moneylenders Bill and the Central Moneylenders Bill all have similar provisions in identical terms)

Tels.—"INDUSCOM." *Codes used*—A.B.C., 5th Edn.. Bentleys.

GOVERNMENT OF MYSORE.

Department of Industries and Commerce.

MR.M.S.RAMCHENDRA RAO,B.A.,

Director.

D. O. No. A1/38-39/Ein 1

OFFICE OF THE DIRECTOR,
Camp,Chikballapur,
Bangalore, dated.....18th April 19

Dear Sir,

Money Lenders' Bill.

With reference to your d.o. letter No. P.5495-5508 dated 15th April 39 forwarding a copy of the draft rule providing for - molestation to be included in the Money - Lenders' Bill, I write to convey my approval to the clause as provided.

In this connection I would like to bring to your kind notice that,if I remember right, this question of including a clause providing for molestation was considered in detail by the Select Committee and finally it was decided that no such provision need be included for the present.

Yours sincerely,

A.Sundararaja Rao,Esq.,B.A.,B.L.,
Secretary, L.C. & R.A.,
Public Offices,
Bangalore.

MSR:SRS.

Molestation.

Whoever molests, or abets the molestation of, a debtor for the recovery of a debt owed by him to the creditor shall be punishable with imprisonment of either description which may extend to three months or with fine which may extend to five hundred rupees or with both.

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(a) obstructs or uses violence or intimidates such other person, or

(b) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, or hinders him in, the use thereof, or

(c) loiters or does any similar act at or near a house or other place where such other person resides or works, or carries on business or happens to be,

shall be deemed to molest such other person: Provided that a person who attends at or near such house or place in order merely to obtain or communicate information or to make a demand for a loan does not be deemed to molest.

(2) Notwithstanding anything contained in the Second Schedule to the Code of Criminal Procedure an offence under this section shall be a cognizable offence as defined in the Code and the rest of the provisions of the Code shall have effect accordingly.

(The Punjab Protection of Debtors Act,1937. The Bombay Moneylenders Bill and the Bengal Moneylenders Bill all have a similar provision in identical terms)

GOVERNMENT OF MYSORE

Mirle N. Lakshminaranappa, Esq., B.A., LL.B.,
Government Advocate.

GOVERNMENT ADVOCATE'S CHAMBERS,
PUBLIC OFFICES,
Bangalore, 18th April 193 9.

D. O. No. 808

Dear Sir,

I am in receipt of your letter No. P. 5495-5508, - dated the 15th April 1939, re: Money-lenders' Bill.

2. I believe the word "Obtained" in line 3 of the explanation is a typographical mistake for "abstain".

3. Regarding the proviso exempting the creditor's act from the purview of the offence of molestation, I may be - kindly permitted ~~the~~ to extract the following from my U. O. No. 8 of 1938-39, dated the 30th July 1938, addressed to the - General Secretary to Government:-

> "..... In my opinion, that proviso which - allows the creditor to go to the house of the - debtor for the ostensible purpose of getting - information or making demand almost nullifies - the object of the section, for he can always - put up the defence of a bona-fide purpose of - either a demand or quest for information. There will be no hardship, I believe, by the deletion of the proviso, because an equally effective demand can be made through post, or information - can be gathered otherwise than by being bodily present near the debtor's house".

4. I believe even without the proviso, its object will be achieved. It is loitering or doing any ~~x~~ similar act at or near a house under clause (c) that is an offence. The proviso is the exemption from attendance at that place for the purposes mentioned therein. Surely, loitering is not attendance. If that ~~is~~ be correct, a person who attends is outside the mischief of clause (c), and therefore, the proviso really does not function in the sense in which provisos are expected to do. Therefore, while there will be no hardship caused to the creditor by the omission of the - proviso, it will only deprive him of a cloak for a legal - argument or a put_up plea that he was attending and not - loitering in the place to obtain information or to make a demand.

5. I think the proviso may, without causing any disadvantage to the creditor, be omitted.

6. The enclosure to your letter under reply is - herewith returned,

Yours sincerely,

Mode Lakshmi
Narasappa

A. Sundararaja Rao, Esq., B.A., B.L.,
Under-Secretary to Government,
Bangalore.

Molestation.

Whoever molests, or abets the molestation of, a debtor for the recovery of a debt owed by him to the creditor shall be punishable with imprisonment of either description which may extend to three months or with fine which may extend to five hundred rupees or with both.

Explanation.- For the purpose of this section a person who with intent to cause another person to obtain from doing or to do any act which he has a right to do or to abstain from doing.

(a) obstructs or uses violence or intimidates such other person, or

(b) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, or hinders him in, the use thereof, or

(c) loiters or does any similar act at or near a house or other place where such other person resides or works, or carries on business or happens to be,

shall be deemed to molest such other person: Provided that a person who attends at or near such house or place in order merely to obtain or communicate information or to make a demand for a loan due shall not be deemed to molest.

(2) Notwithstanding anything contained in the Second Schedule to the Code of Criminal Procedure an offence under this section shall be a cognisable offence as defined in the Code and the rest of the provisions of the Code shall have effect accordingly.

(The Punjab Protection of Debtors Act,1937. The Bombay Moneylenders Bill and the Bengal Moneylenders Bill all have a similar provision in identical terms)

Approved with the suggestions made in my letter dtd 18.4.39

Mohanlal Samapath
Prosy. Advocate
18-4-39

Molestation.

Whoever molests, or abets the molestation of, a debtor for the recovery of a debt owed by him to the creditor shall be punishable with imprisonment of either description which may extend to three months or with fine which may extend to five hundred rupees or with both.

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(b) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, or hinders him in, the use thereof, or

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shall be deemed to ~~make~~ molest such other person: Provided that a person who attends at or near such house or place in order merely to obtain or communicate information or to make a demand for a loan due shall not be deemed to molest

Approved
M. Chunnigeramiah
19/4/39

(2) Notwithstanding anything contained in the Second Schedule to the Code of Criminal Procedure an offence under this section shall be a cognisable offence as defined in the Code and the rest of the provisions of the Code shall have effect accordingly.

(The Punjab Protection of Debtors Act,1937. The Bombay Moneylenders Bill and the Bengal Moneylenders Bill all have a similar provis in identical terms)

Subbarama Chetty, M.L.C.,
Director The Bank of Mysore Ltd.,
Municipal Councillor.

65 5143 CHICKPET.

Bangalore City, 18th.Apr. 193 9

To

The Secretary,

The Mysore Legislative Council

B_A_N_G_A_L_O_R_E.

Dear Sir,

I am in receipt of your letter No.P.5496-5503 of 15th inst, with a copy of the draft clause for incorporation into the Money Lenders Bill. I am returning the same herewith duly approved

Encl.1

Yours faithfully,

P Subbarama Chetty

Molestation.

Whoever molests, or abets the molestation of, a debtor for the recovery of a debt owed by him to the creditor shall be punishable with imprisonment of either description which may extend to three months or with fine which may extend to five hundred rupees or with both.

Explanation.- For the purpose of this section a person who with intent to cause another person to obtain from doing or to do any act which he has a right to do or to abstain from doing.

(a) obstructs or uses ~~xxxxxxx~~ violence or intimidates such other person, or

(b) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, or hinders him in, the use thereof, or

(c) loiters or does any similar act at or near a house or other place where such other person resides or works, or carries on business or happens to be,

shall be deemed to ~~xxxxx~~ molest such other person: Provided that a person who attends at or near such house or place in order merely to obtain or communicate information or to make a demand for a loan due shall not be deemed to ~~xxxxx~~ molest.

(2) Notwithstanding anything contained in the Second Schedule to the Code of Criminal Procedure an offence under this section shall be a cognisable offence as defined in the Code and the rest of the provisions of the Code shall have effect accordingly.

(The Punjab Protection of Debtors Act,1937. The Bombay Moneylenders Bill and the Bengal Moneylenders Bill all have a similar provision in identical terms)

6610 p 65-6 27

...BHUSHANA, DIWAN BAHADUR
K. R. SRINIVASIENGAR
RETIRED MEMBER OF COUNCIL

FIFTH ROAD, CHAMARAJAPET
Bangalore City, 24-4-1939.

69/2.1.4

Dear Sir,

I herewith return with my remarks the draft clause of the Money Lenders Bill, sent by you with your letter No.P.5495-5508 dated 15-4-1939.

Yours sincerely,

A. Sundaraja Rao, Esq., B.A., B.L.,
Secretary, R.A. & L.C.,
General and Revenue Secretariat,
B A N G A L O R E.

Molestation.

Whoever molests, or abets the molestation of, a debtor for the recovery of a debt owed by him to the creditor shall be punishable with imprisonment of either description which may extend to three months or with fine which may extend to five hundred rupees or with both.

Explanation.- For the purpose of this section a person who with intent to cause another person to ~~obtain~~ abstain from doing or to do any act which he has a right to do or to ~~obtain~~ abstain from doing.

(a) obstructs or uses violence to, or intimidates such other person, or

(b) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, or hinders him in, the use thereof, or

(c) loiters or does any similar act at or near a house or other place where such other person resides or works, or carries on business or happens to be,

shall be deemed to molest such other person: Provided that a person who attends at or near such house or place in order merely to obtain or communicate information or to make a demand for a loan due shall not be deemed to molest.

(2) Notwithstanding anything contained in the Second Schedule to the Code of Criminal Procedure an offence under this section shall be a cognizable offence as defined in the Code and the rest of the provisions of the Code shall have effect accordingly.

(The Punjab Protection of Debtors Act,1937 The Bombay Moneylenders Bill and the Bengal Moneylenders Bill all have a similar provision in identical terms)

D.O. No. Camp. S. 57/38-12

Mr. S. ABDUL WAJID, B.A.,
Revenue Commissioner.

Camp, SAGAR, 30
NEW PUBLIC OFFICES,
Dated Bangalore, 20th April 1939.

Dear Sir,

I return herewith duly approved a copy of the draft clause for incorporation into the Money Lenders Bill, sent with your D.O. letter No. P.5495-5808 dated 15th April 1939.

Yours Sincerely,

A. Sundara Raja Rao, Esqr., B.A., B.L.,
Under Secretary to the Government of Mysore,
Bangalore.

estation.

Whoever molests, or abets the molestation of, a debtor for the recovery of a debt owed by him to the creditor shall be punishable with imprisonment of either description which may extend to three months or with fine which may extend to five hundred rupees or with both.

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(2) Notwithstanding anything contained in the Second Schedule to the Code of Criminal Procedure an offence under this section shall be a cognisable offence as defined in the Code and the rest of the provisions of the Code shall have effect accordingly.

(The Punjab Protection of Debtors Act,1937. The Bombay Moneylenders Bill and the Bengal Moneylenders Bill all have a similar provision in identical terms)

Government of His Highness the Maharaja of Mysore. 32

General and Revenue Secretariat.

No.P.5495-5508 Dated Bangalore the 15th April 1939

P.C. 17/14

Dear Sir,

As decided on the 8th instant at the last Meeting of the Select Committee on the Money-lenders Bill, I am desired to send herewith for your approval and kind return before the 24th instant a copy of the draft clause for incorporation into the Bill.

Yours sincerely,

Returned with compliments. The draft is alright.

24/4/39 Chief Sec

To

Rajasevaprasaktha
B.T.Kesavairengar, Esq., B.A.,
Chief Secretary to Government,
Bangalore.

Molestation.

Whoever molests, or abets the molestation of, a debtor for the recovery of a debt owed by him to the creditor shall be punishable with imprisonment of either description which may extend to three months or with fine which may extend to five hundred rupees or with both.

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(The Punjab Protection of Debtors Act,1937. The Bombay Moneylenders Bill and the Bengal Moneylenders Bill all have a similar provisior in identical terms)

34

Government of His Highness the Maharaja of Mysore.

General and Revenue Secretariat.

No.P.5495-5508 Dated Bangalore the 15th April 193

Dear Sir,

As decided on the 8th instant at the last meeting of the Select Committee on the Money-lenders Bill, I am desired to send herewith for your approval and kind return before the 24th instant a copy of the draft clause for incorporation into the Bill.

Yours sincerely,

Secretary

Dear Sir,

I am returning herewith the draft Bill duly sent by you duly approved

Yours Sincerely Mohammed Abbas Khan

25/4/39

To

Khan Bahadur
Mahomed Abbas Khan, Esq.,
Member, Mysore Legislative Council,
Arcot Srinivasachar Street,
Bangalore City.

Government of His Highness the Maharaja of Mysore.

General and Revenue Secretariat.

No.P.5495-5508 Dated Bangalore the 15th April 193

Dear Sir,

As decided on the 8th instant at the last Meeting of the Select Committee on the Moneylenders Bill, I am desired to send herewith for your approval and kind return before the 24th instant a copy of the draft clause for incorporation into the Bill.

Yours sincerely,

Secretary to

Dear Sir,

I am returning herewith the draft-Bill duly sent by you duly approved

Yours Sincerely Mohammed Abbas Khan

25/4/39

To

Khan Bahadur
Mahomed Abbas Khan, Esq.,
Member, Mysore Legislative Council
Arcot Srinivasachar Street,
Bangalore City.

Molestation.

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(c) loiters or does any similar act at or near a house or other place where such other person resides or works, or carries on business or happens to be,

shall be deemed to molest such other person: Provided that a person who attends at or near such house or place in order merely to obtain or communicate information or to make a demand for a loan due shall not be deemed to molest.

(2) Notwithstanding anything contained in the Second Schedule to the Code of Criminal Procedure an offence under this section shall be a cognizable offence as defined in the Code and the rest of the provisions of the Code shall have effect accordingly.

(The Punjab Protection of Debtors Act,1937. The Bombay Moneylenders Bill and the Bengal Moneylenders Bill all have a similar provision in identical terms)

GOVERNMENT OF MYSORE.

M. ABDUL HUKH, Esq., B.A.

DEPARTMENT OF CO-OPERATION.

OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES
IN MYSORE.

D. O. No. 880 · Enc · one Dated Bangalore, 25th April, 1939

KSJ/26.4

Dear Sir,

The Draft Clauses relating to the Money Lenders' Bill were received by me with your letter No:P.5495-5508 dated 15th April 1939 while I was on tour. I regret I was not able to send it earlier.

The Draft Clauses may be incorporated in the Bill and I am returning the same as desired.

Yours sincerely,

A. Sundararaja Rao, Esq., B.A., B.L.,
Secretary to the Committee, Select Committee,
Bangalore.

solentation.

whoever molests, or abets the molestation of, a debtor for the recovery of a debt owed by him to the creditor shall be punishable with imprisonment of either description which may extend to three months or with fine which may extend to five hundred rupees or with both.

Explanation.- For the purpose of this section a person who with intent to cause another person to obtain from doing or to do any act which he has a right to do or to obtain from doing,

(a) obstructs or uses violence or intimidates such other person, or

(b) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, or hinders him in the use thereof; or

(c) loiters or does any similar act at or near a house or other place where such other person resides or works, or carries on business or happens to be,

shall be deemed to molest such other person: Provided that a person who attends at or near such house or place in order merely to obtain or communicate information or to make a demand for a loan due shall not be deemed to molest.

(3) Notwithstanding anything contained in the second schedule to the code of criminal procedure an offence under this section shall be a cognizable offence as defined in the code and the rest of the provisions of the code shall have effect accordingly.

(The Punjab Protection of Debtors Act, 1937, The Bombay Moneylenders Bill and the Madras Moneylenders Bill will have similar provision in identical terms)

Member
Select Committee.

Mysore State Harijan Sevak Sangha

(REGISTERED UNDER MYSORE SOCIETIES REGULATION OF 1904)

ಮೈಸೂರು ಸಂಸ್ಥಾನದ ಹರಿಜನ ಸೇವಾ ಸಂಘ, ಮಲ್ಲೇಶ್ವರಂ, ಬೆಂಗಳೂರು

PRESIDENT :
Sit. P. SUBBARAMA CHETTY, M.L.C.
TREASURER :
Sjt. S. L. MANNAJI RAO
WORKING SECRETARY :
RAMACHANDRA.

PROVINCIAL BOARD OF THE
ALL INDIA HARIJAN SEVAK SANGHA
DELHI

MALLESWARAM—BANGALORE

Dated 25th April 1939

To

The Secretary,

Legislative Council,

Bangalore.

Dear Sir,

I entirely endorse the Section on Molestation proposed to be incorporated in the Money-lenders' Bill. As pointed by me at the Select Committee, a section like this is very essential. The very existence of the section will be a fear to quite a large number of unscrupulous money-lenders to whom the 'lathi' is a more powerful weapon to demand and extract any amount of interest than any ~~lock-out~~ law court. It is only this section which will prevent them from the methods they are adopting at present, as also protect the poor and helpless ~~labourers~~ borrowers. The evil is practised in a great measure and there is no use shutting our eyes. Provision of such a clause to the bill will have the very great restraining influence on the methods practised by the money-lenders. I do hope that Government will introduce this clause.

Thanking you

Ever yours in service,

T. Ramachandra

Secretary.

Molestation.

Whoever molests, or abets the molestation of, a debtor for the recovery of a debt owed by him to the creditor shall be punishable with imprisonment of either description which may extend to three months or with fine which may extend to five hundred rupees or with both.

Explanation.- For the purpose of this section a person who with intent to cause another person to obtain from doing or to do any act which he has a right to do or to abstain from doing.

(a) obstructs or uses violence or intimidates such other person, or

(b) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, or hinders him in, the use thereof, or

(c) loiters or does any similar act at or near a house or other place where such other person resides or works, or carries on business or happens to be,

shall be deemed to molest such other person: Provided that a person who attends at or near such house or place in order merely to obtain or communicate information or to make a demand for a loan due shall not be deemed to molest.

(2) Notwithstanding anything contained in the Second Schedule to the Code of Criminal Procedure an offence under this section shall be a cognisable offence as defined in the Code and the rest of the provisions of the Code shall have effect accordingly.

Existing provision

J. Ramachandra M.L.C. 25.4.38

(The Punjab Protection of Debtors Act, 1937. The Bombay Moneylenders Bill and the Bengal Moneylenders Bill all have a similar provision in identical terms)

Government of His Highness the Maharaja of Mysore.

General and Revenue Secretariat.

D.O.No.F.5789-5801 Dated Bangalore the 3rd May 1939.

6867 | P

Dear Sir,

I am desired to send herewith a copy of the report of the Select Committee on the Money-lenders Bill and to request you to return the same with your approval at a very early date.

Yours sincerely,

Khan Bahadur
Mahomed Abbas Khan, Esq.,
Member, Mysore Legislative Council,
Arcot Srinivasachar's Street,
Bangalore City.

Dear Sir,

I am returning herewith duly approved draft report of the Select Committee kindly sent by you on the 3rd May 1939.

M. Mahomed Abbas Khan

(c)the name of the pawnor and where the pawnor is not the owner of the article or of any of the articles pawned, the name and address of the owner thereof.

We also recommend that sub-clause (2) may be recast as follows:-

12(2). A true copy of the entries in such account signed by the ~~xxxx~~ oawn-broker or his duly authorised agent shall be delivered by him to the pawnor at the time of the pawn on tender of the prescribed fee.

Clause 13. As we consider that inspection should be made only when the accounts are suspected to be improperly kept, we recommend ~~that~~ substitution of the following clause for the existing one:-

13(1). If an officer specially authorised in this behalf by the Government has reason to believe that the accounts required to be maintained under this Act by a moneylender are not properly maintained by him, such officer may call upon the moneylender to produce all his books of account for inspection and such moneylender shall be bound to produce all such books.

(2) If from such inspection it appears that such moneylender has committed any offence under this Act, such officer may cause proceedings to be instituted against him in the court ~~xfxkxx~~ having jurisdiction.

Clause 14. While the majority of us are of opinion that the existing provision may be retained, a few were of opinion that the maximum rates of interest should be increased in the case of small loans below a fixed amount in order to avoid strangulation of credit in rural areas.

Clause 15. We recommend that the marked words 'with yearly rests' may be added after the word 'annum'

We suggest to Government that clauses 14 to 17 should be made applicable to all moneylenders as defined in the Bill and no exceptional treatment should be given to Banks as regards these clauses.

Clause 18. To indicate that the Courts have discretion to disallow a portion only of the costs in suitable cases, we recommend that the last three words in Clause 18(a) may be changed to 'may disallow the whole or any portion of the costs'.

Clause 19. In sub-clause (1) for the words 'or is otherwise' we recommend the substitution of the word 'and is.'

As we consider that a right of appeal should be given to a party aggrieved by an order of court under clause 19(1), we recommend the addition of the following as sub-clause (5):-

> (5) Re-hearings of and appeals from any order under sub-section (1) may be had in the same manner and subject to the same conditions in and subject to which appeals may be had from any order or decision of the same court within its ordinary jurisdiction. In cases cognizable by a court of small causes appeals shall lie to the principal court of original jurisdiction in the division.

Clause 20. To make the punishment for contravening the provisions of this Act less drastic and to indicate that the cancellation or suspension of

the court having merely to pass an order to that effect, we recommend the substitution of the following clause for the existing one:-

> "0. Whoever makes default in complying with or acts in contravention of any of the provisions of this Act shall, if no specific penalty has been provided in this Act, be punishable,
>
> (a) for the first offence with fine which may extend to rupees two hundred,
>
> (b) for the second offence with fine which may extend to rupees five hundred, and
>
> (c) for any subsequent offence with imprisonment of either description for a term not exceeding one month or with fine which may extend to rupees five hundred or with both;

and on such conviction the court may also order that his registration or licence shall be cancelled.

We consider that the Government should be given power to remove a disqualification imposed on a moneylender by a court under clauses 19 or 20 and we therefore recommend the addition of the following clause as clause 21, the existing clause 21 being re-numbered as clause 24.

> 21. The Government may, at any time on application in the prescribed form accompanied by the prescribed fee, remove a disqualification imposed on a moneylender by a court under section 19 or Section 20, having regard to the time which has elapsed since the order and the circumstances under which it was made or to the time which has elapsed since the conviction and to the nature of the offence.

We also consider that prosecutions for an offence under this Act should not be belated and we therefore recommend the addition of the following

clause as clause 22, the existing clause 22 being renumbered as clause 25.

22. No prosecution for an offence under this Act or any rule made thereunder shall be instituted except within one year next after the commission of such offence.

We consider that protection should be given to a debtor against molestation and we recommend the addition of the following clause as clause 23, the existing clause 23 being renumbered as clause 26.

23. Whoever molests, or abets the molestation of, a debtor for the recovery of a debt owed by him to the creditor shall be punishable with imprisonment of either description for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

EXPLANATION.

For the purpose of this section a person who with intent to cause another person to abstain from doing or to do any act which he has a right to do or do abstain from doing,

(a) obstructs or uses violence or intimidates such other person, or

(b) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, or hinders him in, the use thereof, or

(c) loiters or does any similar act at or near a house or other place where such other person resides or works, or carries on business, or happens to be,

shall be deemed to molest such other person;

Provided that a person who attends at or near such house or place in order merely to obtain or communicate information or to make a demand for a loan due shall not be deemed to molest.

Tels.—"INDUSCOM."

DEPARTMENT OF INDUSTRIES AND COMMERCE.

Mr.M.S.Ramchendra Rao,B.A.,

D.O. No. A1/38.39/Enc/

OFFICE OF THE DIRECTOR.

Bangalore, dated the....6th..May..... *1939*.

Dear Sir,

I am returning herewith approved the copy of the report of the Select Committee on the Money-Lenders' Bill sent with your d.o.letter No.P.5789-5801 dated 3rd May 1939.

Yours sincerely,

M Ramchendra

A.Sundararaja Rao,Esq.,B.A.,B.L.,
Secretary, Representative Assembly & Legislative Council,
Public Offices, Bangalore.

SRS,

(2) Notwithstanding anything contained in the Second Schedule to the Code of Criminal Procedure an offence under this section shall be cognizable offence as defined in the Code and the rest of the provisions of the Code shall have effect accordingly.

Clause 24. Consequent on the addition of clause 21, we recommend that the word 'and' at the end of (v) of sub-clause (2) may be omitted and the following words and figures added after (vi):-

and (vii) the form of the application for removal of a disqualification under Section 21 and the fee therefor

Clause 26. Since the extension of the provisions of Chapters III and IV would not be effective without the extension of the provisions of Chapter V which provide for penalties; we recommend the substitution of the figures and words "IV and V" for the words and figures, "and IV" in this clause.

As some additions have been made to the Bill we recommend its republication.

MYSORE MONEYLENDERS BILL.

Select Committee Report.

To the members of the Select Committee to which the Mysore Moneylenders Bill was referred have considered the several clauses of the Bill, heard representatives of the important Moneylenders Associations and have now the honor to submit the following report:-

Clause 2 (5) - We recommend that the word 'other' may be added between the words 'any' and 'business'

Chapter 2. After considerable discussion of the several clauses of the Chapter we are of opinion (Messrs. Rajasabhushana Diwan Bahadur K.R. Srinivasa Iyengar, Belur Srinivasa Iyengar and T. Sirimaji so dissenting) that the existing provisions may be retained.

Clause 9. We recommend that great caution should be observed in applying the provisions of this clause to petty moneylenders in the villages.

Clause 12. To make the record of the transactions more comprehensive, we recommend that the sub-clause (1) may be recast as follows:-

> 12 (1) Every pawn-broker shall regularly record and maintain an account in which in addition to the particulars contained in the form prescribed under section 9, the following particulars are recorded, namely:-
>
> (a) a full and detailed description of the article or of each of the articles taken in pawn,
>
> (b) the time agreed upon for the redemption of the pawn,
>
> (c) the name of the pawnor and where the pawnor is not the owner of the article or of any of the articles pawned, the name and address of the owner thereof.

We also recommend that sub-clause (2) may be recast as follows:-

12 (2). A true copy of the entries in such account signed by the pawn-broker or his duly authorised agent shall be delivered by him to the pawnor at the time of the pawn on receipt of the prescribed fee.

Clause 13. As we consider that inspection should be made only when the accounts are suspected to be improperly kept, we recommend the substitution of the following clause for the existing one:-

> 13 (1). If an officer specially authorized in this behalf by the Government has reason to believe that the accounts required to be maintained under this Act by a moneylender are not properly maintained by him, such officer may call upon the moneylender to produce all his books of account for inspection and such moneylender shall be bound to produce all such books.
>
> (2) If from such inspection it appears that such moneylender has committed any offence under this Act, such officer may cause proceedings to be instituted against him in the court having jurisdiction.

Clause 14. While the majority of us are of opinion that the existing provision may be retained, a few were of opinion that the maximum rates of interest should be increased in the case of small loans below a fixed amount in order to avoid strangulation of credit in rural areas.

Clause 15. We recommend that the words 'with yearly rests' may be added after the word 'annum'.

We suggest to Government that clauses 14 to 17 should be made applicable to all moneylenders as defined in the Bill and no exceptional treatment should be given to banks as regards these clauses.

Clause 18. To indicate that the courts have discretion to disallow a portion only of the costs in suitable cases, we recommend that the last three words in clause 18 (a) may be changed to 'may disallow the whole or any portion of the costs'

Clause 19. In sub-clause (1) for the words 'or is otherwise' we recommend the substitution of the word 'and is'.

As we consider that a right of appeal should be given to a party aggrieved by an order of court under clause 19 (1), we recommend the addition of the following as sub-clause (5):-

> (5) Re-hearings of and appeals from any order under under sub-section (1) may be had in the same manner and subject to the same conditions in and subject to which appeals may be had from any order of decision of the same court within its ordinary jurisdiction. In cases cognizable by a court of small causes appeals shall lie to the principal court of original jurisdiction in the division.

Clause 20. To make the punishment for contravening the provisions of this Act less drastic and to indicate that the cancellation or suspension of licence is to be done by the registering officer, the court having merely to pass an order to that effect, we recommend the substitution of the following clause for the existing one:-

> 20. Whoever makes default in complying with or acts in contravention of any of the provisions of this Act shall, if no specific penalty has been provided in this Act, be punishable,
>
> (a) for the first offence with fine which may extend to rupees two hundred,
>
> (b) for the second office with fine which may extend to rupees five hundred, and
>
> c) for any subsequent offence with imprisonment of either description for a term not exceeding one month or with fine which may extend to rupees five hundred or with both; and on such conviction the court may also order that his registration or licence shall be cancelled.

We consider that the Government should be given power to remove a disqualification imposed on a moneylender by a court under clauses 19 or 20 and we therefore recommend the addition of the following clause as clause 21, the existing clause 21 being renumbered as clause 24.

> 21. The Government may, at any time on application in the prescribed form accompanied by the prescribed fees, remove a disqualification imposed on a moneylender by a court under section 19 or section 20, having regard to the time which has elapsed since the order and the circumstances under which it was made or to the time which has elapsed since the conviction and to the nature of the offence.

We also consider that prosecutions for an offence under this Act should not be belated and we therefore recommend the addition of the following clause as clause 22, the existing clause 22 being renumbered as clause 25.

> 22. No prosecution for an offence under this Act or any rule made thereunder shall be instituted except within one year next after the commission of such offence.

We consider that protection should be given to a debtor against molestation and we recommend the addition of the following clause as clause 23, the existing clause 23 being renumbered as clause 26.

Whoever molests, aids or abets the molestation of, a debtor for the recovery of a debt owed by him to the creditor shall be punishable with imprisonment of either description for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

EXPLANATION.

For the purpose of this section a person who with intent to cause another person to abstain from doing or to do any act which he has a right to do or do abstain from doing,

(a) obstructs or uses violence or intimidates such other persons, or

(b) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, or hinders him in, the use thereof, or

(c) loiters or does any similar act at or near a house or other place where such other person resides or works, or carries on business, or happens to be

shall be deemed to molest such other person;

Provided that a person who attends at or near such house or place in order merely to obtain or communicate information or to make a demand for a loan one shall not be deemed to be molest.

(2) Notwithstanding anything contained in the second Schedule to the Code of Criminal Procedure an offence under this section shall be cognizable offence as defined in the Code and the rest of the provisions of the Code shall have effect according

Clause 24. Consequent on the addition of clause 21, we recommend that the word 'and' at the end of (v) of sub-clause (2) may be omitted and the following words and figures added after (vi):-

and (vii) the form of the application for removal of a disqualification under section 21 and the fee therefor

Clause 26. Since the extension of the provisions of Chapters III and IV would not be effective without the extension of the provisions of Chapter V which provide for penalties, we recommend the substitution of the figures and words "IV and V" for the words and figures, "and IV" in this clause.

Some additions have been made to the Bill we recommend its republication.

Approved

M. Ramachandra
Dy. Secy. to Govt. of India
1-5-35

GOVERNMENT OF MYSORE.

M. ABDUL KHUKH, Esq., B.A.

DEPARTMENT OF CO-OPERATION.

OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES & MYSORE.

D.O. NO. 903. Enc. one Dated Bangalore, 5th May 1939.

Dear Sir,

I return herewith duly approved the copy of the report of the Select Committee on the Money-Lenders' Bill received with your letter No.P.5789-5801 dated 3rd May 1939.

Yours Sincerely,

A. Sundararaja Rao, Esq., B.A. B.L.,
Secretary, R.A. & L.C., Genl.& Rev.Secretariat,
Bangalore.

MONEYLENDERS BILL.

Select Committee Report.

We the members of the Select Committee to which the Mysore Moneylenders Bill was referred have considered the several clauses of the Bill, heard representatives of the important moneylenders associations and have now the honor to submit the following report:-

Clause 2 (5) - We recommend that the word 'other' may be added between the words 'any' and 'business'.

Chapter 2. After considerable discussion of the several clauses of the Chapter we are of opinion (Messrs. Rajasabhushana Diwan Bahadur K.R. Srinivasa Iyengar, Belur Srinivasa Iyengar and C. Girimaji also dissenting) that the existing provisions may be retained.

Clause 9. We recommend that great caution should be observed in applying the provisions of this clause to petty moneylenders in the villages.

Clause 12. To make the record of the transactions more comprehensive, we recommend that the sub-clause (1) may be recast as follows:-

> 12 (1) Every pawn-broker shall regularly record and maintain an account in which in addition to the particulars contained in the form prescribed under section 9, the following particulars are recorded, namely:-
>
> (a) a full and detailed description of the article or of each of the articles taken in pawn,
>
> (b) the time agreed upon for the redemption of the pawn,
>
> (c) the name of the pawnor and where the pawnor is not the owner of the article or of any of the articles pawned, the name and address of the owner thereof.

We also recommend that sub-clause (2) may be recast as follows:-

12 (2). A true copy of the entries in such account signed by the pawn-broker or his duly authorised agent shall be delivered by him to the pawnor at the time of the pawn or tender of the prescribed fee.

Clause 13. As we consider that inspection should be made only when the accounts are suspected to be improperly kept, we recommend that substitution of the following clause for the existing one:-

> 13 (1) If an officer specially authorised in this behalf by the Government has reason to believe that the accounts required to be maintained under this Act by a moneylender are not properly maintained by him, such officer may call upon the moneylender to produce all his books of account for inspection and such moneylender shall be bound to produce all such books.
>
> (2) If from such inspection it appears that such moneylender has committed any offence under this Act, such officer may cause proceedings to be instituted against him in the court having jurisdiction.

Clause 14. While the majority of us are of opinion that the existing provision may be retained, a few were of opinion that the maximum rates of interest should be increased in the case of small loans below a fixed amount in order to avoid strangulation of credit in rural areas.

Clause 15. We recommend that the words 'with yearly rests' may be added after the word 'annum'

We suggest to Government that clauses 14 to 17 should be made applicable to all moneylenders as defined in the Bill and no exceptional treatment should be given to Banks as regards these clauses.

Clause 18. To indicate that the courts have discretion to disallow a portion only of the costs in suitable cases, we recommend that the last three words in clause 18 (a) may be changed to 'may disallow the whole or any portion of the costs'

Clause 19. In sub-clause (1) for the words 'or is otherwise' we recommend the substitution of the word 'and is'.

As we consider that a right of appeal should be given to a party aggrieved by an order of court under clause 19 (1), we recommend the addition of the following as sub-clause (5):-

> (5) Re-hearings of and appeals from any order under under sub-section (1) may be had in the same manner and subject to the same conditions in and subject to which appeals may be had from any order of decision of the same court within its ordinary jurisdiction. In cases cognizable by a court of small causes appeals shall lie to the principal court of original jurisdiction in the division.

Clause 20. To make the punishment for contravening the provisions of this Act less drastic and to indicate that the cancellation or suspension of licence is to be done by the registering officer, the court having merely to pass an order to that effect, we recommend the substitution of the following clause for the existing one:-

> 20.--Whoever makes default in complying with or acts in contravention of any of the provisions of this Act shall, if no specific penalty has been provided in this Act, be punishable,
>
> (a) for the first offence with fine which may extend to rupees two hundred,
>
> (b) for the second office with fine which may extend to rupees five hundred, and
>
> (c) for any subsequent offence with imprisonment of either description for a term not exceeding one month or with fine which may extend to rupees five hundred or with both; and on such conviction the court may also order that his registration or licence shall be cancelled.

We consider that the Government should be given power to remove a disqualification imposed on a moneylender by a court under clauses 19 or 20 and we therefore recommend the addition of the following clause as clause 21, the existing clause 21 being renumbered as clause 24.

> 21. The Government may, at any time on application in the prescribed form accompanied by the prescribed fees, remove a disqualification imposed on a moneylender by a court under section 19 or section 20, having regard to the time which has elapsed since the order and the circumstances under which it was made or to the time which has elapsed since the conviction and to the nature of the offence.

We also consider that prosecutions for an offence under this Act should not be belated and we therefore recommend the addition of the following clause as clause 22, the existing clause 22 being renumbered as clause 25.

> 22. No prosecution for an offence under this Act or any rule made thereunder shall be instituted except within one year next after the commission of such offence.

We consider that protection should be given to a debtor against molestation and we recommend the addition of the following clause as clause 23, the existing clause 23 being renumbered as clause 26.

23. Whoever molests, arm or abets the molestation of, a debtor for the recovery of a debt owed by him to the creditor shall be punishable with imprisonment of either description for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

EXPLANATION.

For the purpose of this section a person who with intent to cause another person to abstain from doing or to do any act which he has a right to do or do abstain from doing,

(a) obstructs or uses violence or intimidates such other persons, or

(b) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, or hinders him in, the use thereof, or

(c) loiters or does any similar act at or near a house or other place where such other person resides or works, or carries on business, or happens to be

shall be deemed to molest such other person;

Provided that a person who attends at or near such house or place in order merely to obtain or communicate information or to make a demand for a loan due shall not be deemed to be molest.

(2) Notwithstanding anything contained in the second schedule to the Code of Criminal Procedure an offence under this section shall be cognizable offence as defined in the Code and the rest of the provisions of the Code shall have effect accordingly

Clause 24. Consequent on the addition of clause 21, we recommend that the word 'and' at the end of (v) of sub-clause (2) may be omitted and the following words and figures added after (vi):-

and (vii) the form of the application for removal of a disqualification under section 21 and the fee therefor

Clause 26. Since the extension of the provisions of Chapters III and IV would not be effective without the extension of the provisions of Chapter V which provide for penalties, we recommend the substitution of the figures and words "IV and V" for the words and figures, "and IV" in this clause.

As some additions have been made to the Bill we recommend its republication.

The [illegible] Bill. 8 MAY 1939

Joint Committee's report.

KB/8.5.39 The members of the Joint Committee to which the [illegible] Moneylenders Bill was referred have considered the several clauses of the Bill, heard representatives of the important moneylenders associations and have now the honour to submit the following report:-

Clause 2 (5) - We recommend that the word 'other' may be added between the words 'any' and 'business'.

Chapter II. After considerable discussion of the several clauses of the chapter we are of opinion (Messrs. Rajagopalachariar, Iyengar, Balakrishna Iyengar, Balakrishna Ayyangar and V. Giriyaji) so dissenting) that the existing provisions may be retained.

Clause 8. We recommend that great caution should be observed in applying the provisions of this clause to petty moneylenders in the villages.

Clause 11. To make the record of the transactions more comprehensive, we recommend that the sub-clause (1) may be recast as follows:-

> 11 (1) Every pawn-broker shall regularly record and maintain an account in which in addition to the particulars contained in the form prescribed under section 9, the following particulars are recorded, namely:-
>
> (a) a full and detailed description of the article or of each of the articles taken in pawn,
>
> (b) the time agreed upon for the redemption of the pawn,
>
> (c) the name of the pawnor and where the pawnor is not the owner of the article or of any of the articles pawned, the name and address of the owner thereof.

We also recommend that sub-clause (2) may be recast as follows:-

11 (2). A true copy of the entries in such account signed by the pawn-broker or his duly authorised agent shall be delivered by him to the pawnor at the time of the pawn or before the prescribed fee.

MADRAS PAWN BILL.

8 MAY 1939

Select Committee Report.

To the members of the Select Committee to which the Madras Moneylenders Bill was referred have considered the several clauses of the Bill, heard representatives of the important moneylenders associations etc. have now the honor to submit the following report:-

Clause 2 (5) - We recommend that the word 'other' may be added between the words 'any' and 'business'.

Chapter 2. After considerable discussion of the several clauses of the Chapter there were opinion among the members, Rajasabhushana Diwan Bahadur T. Rangaswami Iyengar, Diwan Rangaswami Ayyangar and T. Girijaji Rao dissenting that the existing provisions may be retained.

Clause 9. We recommend that great caution should be observed in applying the provisions of this clause to petty moneylenders in the villages.

Clause 12. To make the record of the transactions more comprehensive, we recommend that the sub-clause 1) may be recast as follows:-

> 12 (1) Every pawn-broker shall regularly record and maintain in accounts in which in addition to the particulars contained in the form prescribed under section 9, the following particulars are recorded, namely:-
>
> (a) a full and detailed description of the article or of each of the articles taken in pawn.
>
> (b) the time agreed upon for the redemption of the pawn,
>
> (c) the name of the pawnor and where the pawnor is not the owner of the article or of any of the articles pawned, the name and address of the owner thereof.

We also recommend that sub-clause (2) may be recast as follows:-

12 (2). A true copy of the entries in such account signed by the pawn-broker or his duly authorised agent shall be delivered by him to the pawnor at the time of the pawn on receipt of the prescribed fee.

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Clause 13. As we consider that inspection should be compulsorily made where sections are suspected to be improperly kept, we recommend the substitution of the following clause for the existing one:-

> 13 (1). If an officer specially authorised in this behalf by the Government has reason to believe that the accounts required to be maintained thereunder by a moneylender are not properly maintained by him, such officer may call upon the moneylender to produce all his books of account, for inspection, and such moneylender shall be bound to produce all such books.
>
> (2) If from such inspection it appears that such moneylender has committed any offence under this Act, such officer may cause proceedings to be instituted against him in the Court having jurisdiction.

Clause 14. While the majority of us are of opinion that the existing provision may be retained, a few were of opinion that the rate of interest should be increased in the case of small loans which would enable money to be lent at a reasonable rate of profit in rural areas.

Clause 15. We recommend that the words 'with yearly rests' may be added after the word 'remain'.

We are not to overlook that clauses 16 to 17 should be made applicable to all moneylenders as defined in the Bill and no exceptional treatment should be given to Co-operative Societies.

Clause 18. We think that the Courts have discretion to allow interest only on the principal amount of loans, where rests are not made but that discretion should be exercised only in exceptional circumstances. We recommend that the Courts may disallow the whole or any portion of the compound interest.

Clause 19. In sub-clause (1) for the words 'or in other like wise' we recommend the substitution of the words 'and in'.

As the question of the right of appeal would be given to a party aggrieved by an order of court under clause 19 (1), we recommend the addition of the following as sub-clause (5):-

> (5) The re-hearings of and appeals from any order under this sub-section shall be had in the same manner and subject to the same conditions in and subject to which re-hearings may be had from any order or decision of the Court within its ordinary jurisdiction. In cases cognizable by a Court of Small Causes appeals shall lie to the Principal Court of Original Jurisdiction in the District.

Clause 20. To make the punishment for contravening the provisions of this Act less drastic and to indicate that the cancellation or suspension of licence is to be done by the registering officer, the court having merely to pass an order to that effect, we recommend the substitution of the following clause for the existing one:-

> 20. Whoever makes default in complying with or acts in contravention of any of the provisions of this Act shall, if no specific penalty has been provided in this Act, be punishable,
>
> (a) for the first offence with fine which may extend to rupees two hundred,
>
> (b) for the second office with fine which may extend to rupees five hundred, and
>
> (c) for any subsequent offence with imprisonment of either description for a term not exceeding one month or with fine which may extend to rupees five hundred or with both; and on such conviction the court may also order that his registration or licence shall be cancelled.

We consider that the Government should be given power to remove a disqualification imposed on a moneylender by a court under clauses 19 or 20 and we therefore recommend the addition of the following clause as clause 21, the existing clause 21 being renumbered as clause 22.

> 21. The Government may, at any time on application in the prescribed form accompanied by the prescribed fees, remove a disqualification imposed on a moneylender by a court under section 19 or section 20, having regard to the time which has elapsed since the order and the circumstances under which it was made or to the time which has elapsed since the conviction and to the nature of the offence.

We also consider that prosecutions for an offence under this Act should not be belated and we therefore recommend the addition of the following clause as clause 24, the existing clause 24 being renumbered as clause 25.

> 24. No prosecution for an offence under this Act or any rule made thereunder shall be instituted except within one year next after the commission of such offence.

We consider that protection should be given to a debtor against molestation and we recommend the addition of the following clause as clause 23, the existing clause 23 being renumbered as clause 26.

23. Whoever molests, sues or uses the molests nor of, a decree for the recovery of a debt owed by him to the creditor shall be punishable with imprisonment of either description for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

For the purpose of this section a person who with intent to cause another person to abstain from doing or to do any act which he has a right to do or do abstain from doing,

(a) obstructs or uses violence or intimidates such other persons, or

(b) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, or hinders him in, the use thereof, or

(c) loiters or does any similar act at or near a house or other place where such other person resides or works, or carries on business, or happens to be

shall be deemed to molest such other person;

Provided that a person who attends at or near such house or place in order merely to obtain or communicate information or to take a warrant for a loan shall not be deemed to be molest.

(2) Notwithstanding anything contained in the Second Schedule to the Code of Criminal Procedure an offence under this section shall be cognizable offence as defined in the Code and the rest of the provisions of the Code shall have effect accordingly;

Clause 24. Consequent on the addition of clause 23, we recommend that the word 'and' at the end of (v) of sub-clause (2) may be omitted and the following words and figures added after (vi):-

and (vii) the form of the application for removal of disqualification under section 23 and the fee therefor

Clause 25. Since the extension of the provisions of Chapters III and IV would not be effective without the extension of the provisions of Chapter V which provide for penalties, we recommend the substitution of the figures and words "IV and V" for the words and figures, "and IV" in this clause.

Some additions have been made to the Bill to necessitate its republication.

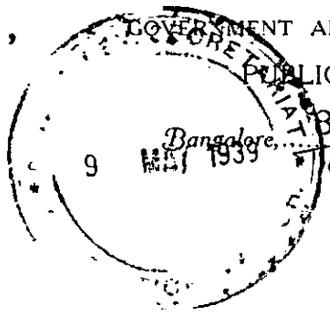
Ramachandra

6.5.38

Mr. Mirle N. Lakshminaranappa, B.A.,LL.B.,
Government Advocate.

GOVERNMENT ADVOCATE'S CHAMBERS,
PUBLIC OFFICES,
Bangalore, 8th May 193 9.

D. O. No. 844 Eve. one



Dear Sir,

I am in receipt of your D. O. letter No. P. 5789-5801, dated the 3rd May 1939 and the draft Report of the Select Committee on the Moneylenders' Bill sent therewith.

2. On page 2, with reference to the new provision for appeals, the clause as actually adopted, I think, provides for Reviews also. I had that in mind, viz., the providing for reviews when that clause was proposed, vide: my note dated the 8th April 1939 relating to the subject, in the file relating to this Bill. This is a provision in favour of those who have been advocating the cause of the money-lenders on the ground that they will be hard hit by legislation. While giving an additional and perhaps a cheaper remedy to the creditor, it causes no hardship to the debtor. Therefore, if the learned Chairman should have no objection I would suggest a small amendment in the note which introduces this clause, viz., adding the words "Reviews and", between the words "of" and "appeal" in line 1 of the last paragraph on page 2.

3. The Draft Report os the Select Committee is returned herewith.

Yours sincerely,

Mirle Lakshminaranappa

A. Sundararaja Rao, Esq., B.A., B.L.,
Under Secretary to Government,
Bangalore.

MONEYLENDERS BILL.

Select Committee Report.

We the members of the Select Committee to which the Mysore Moneylenders Bill was referred have considered the several clauses of the Bill, heard representatives of the important Moneylenders Associations and have now the honor to submit the following report:-

Clause 2 (5) - We recommend that the word 'other' may be added between the words 'any' and 'business'.

Chapter 2. After considerable discussion of the several clauses of the Chapter we are of opinion (Messrs. Rajasabhushana Diwan Bahadur K.R. Srinivasa Iyengar, Belur Srinivasa Iyengar and G. Girimaji Rao dissenting) that the existing provisions may be retained.

Clause 9. We recommend that great caution should observed in applying the provisions of this clause to petty moneylenders in the villages.

Clause 12. To make the record of the transactions more comprehensive, we recommend that the sub-clause (1) may be recast as follows:-

> 12 (1) Every pawn-broker shall regularly record and maintain an account in which in addition to the particulars contained in the form prescribed under section 9, the following particulars are recorded, namely:-
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> (a) a full and detailed description of the article or of each of the articles taken in pawn,
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> (b) the time agreed upon for the redemption of the pawn,
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> (c) the name of the pawnor and where the pawnor is not the owner of the article or of any of the articles pawned, the name and address of the owner thereof.

We also recommend that sub-clause (2) may be recast as follows:-

12 (2). A true copy of the entries in such account signed by the pawn-broker or his duly authorised agent shall be delivered by him to the pawnor at the time of the pawn on tender of the prescribed fee.

Clause 13. As we consider that inspection should be made only when the accounts are suspected to be improperly kept, we recommend ~~that~~ substitution of the following clause for the existing one:-

> 13 (1). If an officer specially authorised in this behalf by the Government has reason to believe that the accounts required to be maintained under this Act by a money-lender are not properly maintained by him, such officer may call upon the moneylender to produce all his books of account for inspection and such moneylender shall be bound to produce all such books.
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> (2) If from such inspection it appears that such moneylender has committed any offence under this Act, such officer may cause proceedings to be instituted against him in the court having jurisdiction.

Clause 14. While the majority of us are of opinion that the existing provision may be retained, a few were of opinion that the maximum rates of interest should be increased in the case of small loans below a fixed amount in order to avoid strangulation of credit in rural areas.

Clause 15. We recommend that the words 'with yearly rests may be added after the word 'annum'.

We suggest to Government that clauses 14 to 17 should be made applicable to all moneylenders as defined in the Bill and no exceptional treatment should be given to Banks as regards these clauses.

Clause 18. To indicate that the Courts have discretion to disallow a portion only of the costs in suitable cases, we recommend that the last three words in Clause 18 (a) may be changed to 'may disallow the whole or any portion of the costs'

Clause 19. In sub-clause (1) for the words 'or is otherwise' we recommend the substitution of the word 'and is'.

As we consider that a right of appeal should be given to a party aggrieved by an order of court under clause 19 (1), we recommend the addition of the following as sub-clause (5):-

> (5) Re-hearings of and appeals from any order under under sub-section (1) may be had in the same manner and subject to the same conditions in and subject to which appeals may be had from any order of decision of the same court within its ordinary jurisdiction. In cases cognizable by a court of small causes appeals shall lie to the principal court of original jurisdiction in the division.

Clause 20. To make the punishment for contravening the rovisions of this ct less drastic and to indicate that the cancellation or suspension of licence is to be done by the registering officer, the court having merely to pass an order to that effect, we recommend the substitution of the following clause for the existing one:-

> 20. Whoever makes default in complying with or acts in contravention of any of the provisions of this ct shall, if no specific penalty has been provided in this ct, be punishable,
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> (a) for the first offence with fine which may extend to rupees two hundred,
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> (b) for the second office with fine which may extend to rupees five hundred, and
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> (c) for any subsequent offence with imprisonment of either description for a term not exceeding one month or with fine which may extend to rupees five hundred or with both; and on such conviction the court may also order that his registration or licence shall be cancelled.

We consider that the Government should be given power to remove a disqualification imposed on a moneylender by a court under clauses 19 or 20 and we therefore recommend the addition of the following clause as clause 21, the existing clause 21 being renumbered as clause 24.

> 21. The Government may, at any time on application in the prescribed form accompanied by the prescribed fees, remove a disqualification imposed on a moneylender by a court under section 19 or section 20, having regard to the time which has elapsed since the order and the circumstances under which it was made or to the time which has elapsed since the conviction and to the nature of the offence.

We also consider that prosecutions for an offence under this ct should not be belated and we therefore recommend the addition of the following clause as clause 22, the existing clause 22 being renumbered as clause 25.

> 22. No prosecution for an offence under this ct or any rule made thereunder shall be instituted except within one year next after the commission of such offence.

We consider that protection should be given to a debtor against molestation and we recommend the addition of the following clause as clause 23, the existing clause 23 being renumbered as clause 26.

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23. Whoever molests, aids or abets the molestation of, a debtor for the recovery of a debt owed by him to the creditor shall be punishable with imprisonment of either description for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

EXPLANATION.

For the purpose of this section a person who with intent to cause another person to abstain from doing or to do any act which he has a right to do or do abstain from doing,

(a) obstructs or uses violence or intimidates such other persons, or

(b) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, or hinders him in, the use thereof, or

(c) loiters or does any similar act at or near a house or other place where such other person resides or works, or carries on business, or happens to be

shall be deemed to molest such other person;

Provided that a person who attends at or near such house or place in order merely to obtain or communicate information or to make a demand for a loan due shall not be deemed to be molest.

(2) Notwithstanding anything contained in the second schedule to the Code of Criminal Procedure an offence under this section shall be cognizable offence as defined in the Code and the rest of the provisions of the Code shall have effect accordingly

Clause 24. Consequent on the addition of clause 21, we recommend that the word 'and' at the end of (v) of sub-clause (2) may be omitted and the following words and figures added after (vi):-

and (vii) the form of the application for removal of a disqualification under section 21 and the fee therefor

Clause 26. Since the extension of the provisions of Chapters III and IV would not be effective without the extension of the provisions of Chapter V which provide for penalties, we recommend the substitution of the figures and words "IV and V" for the words and figures, "and IV" in this clause.

As some additions have been made to the Bill we recommend its republication.

Approved with the suggestions
noted in this office letter No. 844
dated this day.
8/5/39

Mark Mudaliar
Secretary

Frank. Anderson

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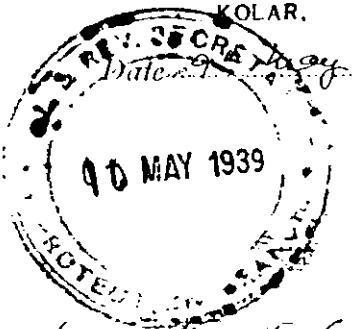
G. Girimaji Rao.
M. L. C.
ಗಿರಿಮಾಜಿರಾವ್, ಎಂ.ಎಲ್.ಸಿ.
ಕೋಲಾರ.



Dated 9th May 1939

Dear Sir.

I am sending herewith the Copy of the Report of the Select Committee on the Money-Lenders Bill after having approved by me.

Yours sincerely,
G. Girimaji Rao

10.5

A. Sundara Raja Rao Esqre B.A., B.L.
Secretary,
Mysore Legislature Council,
Bangalore

[illegible] Bill.

Select Committee Report.

To the members of the Select Committee to which the Madras Moneylenders Bill was referred have considered the several clauses of the Bill, heard representatives of the important Moneylenders Associations and have now the honor to submit the following report:-

Clause 2 (5) - We recommend that the word 'other' may be added between the words 'any' and 'business'.

Chapter 2. After considerable discussion of the several clauses of the Chapter we are of opinion (Messrs. Rajagopalachariar, Diwan Bahadur T.R. Venkatarama Sastriar, Mr. Srinivasa Iyengar and V. Girigaji) no dissenting that the existing provisions may be retained.

Clause 7. We recommend that great caution should be observed in applying the provisions of this clause to petty moneylenders in the villages.

Clause 12. To make the record of the transactions more comprehensive, we recommend that the sub-clause (1) may be recast as follows:-

> 12 (1) Every pawn-broker shall regularly record and maintain an account in which in addition to the particulars contained in the form prescribed under section 9, the following particulars are recorded, namely:-
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> (a) a full and detailed description of the article or of each of the articles taken in pawn;
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> (b) the time agreed upon for the redemption of the pawn;
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> (c) the name of the pawnor and where the pawnor is not the owner of the article or of any of the articles pawned, the name and address of the owner thereof.

We also recommend that sub-clause (2) may be recast as follows:-

12 (2). A true copy of the entries in such account signed by the pawn-broker or his duly authorised agent shall be delivered by him to the pawnor at the time of the pawning on receipt of the prescribed fee.

Clause 13. We consider that inspection should be made only where accounts are such as to be improperly kept, we recommend that substitution of the following clause for the existing one:-

> 13 (1). If an officer specially authorized in this behalf by the Government has reason to believe that the accounts required to be maintained under this Act by a moneylender are not properly maintained by him, such officer may call upon the moneylender to produce all his books of account for inspection and such moneylender shall be bound to produce all such books.
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> (2) If from such inspection it appears that such moneylender has committed any offence under this Act, such officer may cause proceedings to be instituted against him in the Court having jurisdiction.

Clause 14. While the majority of us are of opinion that the existing provision may be retained, a few were of opinion that the maximum rates of interest should be increased in the case of small loans below a fixed amount in order to avoid stringentation of credit in rural areas.

Clause 15. We recommend that the words 'with yearly rests may be added after the word 'annum'.

We suggest to Government that clauses 14 to 17 should be made applicable to all moneylenders as defined in the Bill and no exceptional treatment should be given to banks as regards those clauses.

Clause 18. To indicate that the Courts have discretion to disallow a portion only of the costs in suitable cases, we recommend that the last three words in clause 18 (a) may be changed to 'may disallow the whole or any portion of the costs'.

Clause 19. In sub-clause (1) for the words 'or in other wise' we recommend the substitution of the words 'and in'.

As we consider that a right of appeal should be given to a party aggrieved by an order of court under clause 19 (1), we recommend the addition of the following as sub-clause (5):-

> (5) No hearing of any appeals from any order under under sub-section (1) may be had in the same manner and subject to the same conditions in and subject to which appeals may be had from any order of decision of the same court within its ordinary jurisdiction. In case no appeals by a court of small causes a people shall lie to the principal court of original jurisdiction in the division

Clause 20. To make the punishment for contravening the provisions of this Act less drastic and to indicate that the cancellation or suspension of licence is to be done by the registering officer, the Court having merely to pass an order to that effect, we recommend the substitution of the following clause for the existing one:-

"20. Whoever makes default in complying with or acts in contravention of any of the provisions of this Act shall, if no specific penalty has been provided in this Act, be punishable,

(a) for the first offence with fine which may extend to rupees two hundred,

(b) for the second offence with fine which may extend to rupees five hundred, and

(c) for any subsequent offence with imprisonment of either description for a term not exceeding one month or with fine which may extend to rupees five hundred or with both; and on such conviction the court may also order that his registration or licence shall be cancelled.

We consider that the Government should be given power to remove a disqualification imposed on a moneylender by a court under clauses 19 or 20 and we therefore recommend the addition of the following clause as clause 21, the existing clause 21 being renumbered as clause 22.

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We also consider that prosecutions for an offence under this Act should not be belated and we therefore recommend the addition of the following clause as clause 22, the existing clause 22 being renumbered as clause 23.

22. No prosecution for an offence under this Act or any rule made thereunder shall be instituted except within one year next after the commission of such offence.

We consider that protection should be given to a debtor against molestation and we recommend the addition of the following clause as clause 23, the existing clause 23 being renumbered as clause 24.

23. Whoever solicits, or incites the molestation of, a debtor for the recovery of a debt owed by him to the creditor shall be punishable with imprisonment of either description for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

For the purpose of this section a person who with intent to cause another person to sustain from doing or to do any act which he has a right to do or do abstain from doing,

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Provided that a person who attends at or near such house or place in order merely to obtain or communicate information or to make a demand for a loan shall not be deemed to be molest.

(2) Notwithstanding anything contained in the second schedule to the Code of Criminal Procedure an offence under this section shall be cognizable offence as defined in the Code and the rest of the provisions of the Code shall have effect accordingly

Clause 24. Consequent on the omission of section 21, the words and the brackets and the word 'and' at the end of (v) of sub-clause (2) may be omitted and the following words and figures added after (vi):-

and (vii) the form of the application for removal of a disqualification under section 21 and the fee therefor

Clause 25. Since the extension of the provisions of Chapters III and IV would not be effective without the extension of the provisions of Chapter V which provide for penalties, it is proposed the substitution of the figures and words "IV and V" for the words and figures, "and IV" in this clause.

Some additions have been made to the Bill we recommend its republication.

Approved Ghaziabad 9/5/89

ales

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OFFICE OF THE REVENUE COMMISSIONER
IN MYSORE.

Dated Bangalore, 9th May 193 9.

Dear Sir,

I return herewith duly approved a copy of the report of the Select Committee on the onev Lenders Bill sent with your D.O. letter No. P 5789-5801 dated 3-5-1939.

Yours sincerely

To

A. Sundararaja Rao, Esq., B.A., B.L.,
Under Secretary to Government
Bangalore.

C.S.P.

MONEYLENDERS BILL.

Select Committee Report.

We the members of the Select Committee to which the Mysore Moneylenders Bill was referred have considered the several clauses of the Bill, heard representatives of the important Moneylenders Assocations and have now the honor to submit the following report:-

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We also recommend that sub-clause (2) may be recast as follows:-

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> 12 (2). A true copy of the entries in such account signed by the pawn-broker or his duly authorised agent shall be delivered by him to the pawnor at the time of the pawn on tender of the prescribed fee.

Clause 13. As we consider that inspection should be made only when the accounts are suspected to be improperly kept, we recommend ~~that~~ substitution of the following clause for the existing one:-

> 13 (1). If an officer specially authorised in this behalf by the Government has reason to believe that the accounts required to be maintained under this Act by a moneylender are not properly maintained by him, such officer may call upon the moneylender to produce all his books of account for inspection and such moneylender shall be bound to produce all such books.
>
> (2) If from such inspection it appears that such moneylender has committed any offence under this Act, such officer may cause proceedings to be instituted against him in the court having jurisdiction.

Clause. 14. While the majority of us are of opinion that the existing provision may be retained, a few were of opinion that the maximum rates of interest should be increased in the case of small loans below a fixed amount in order to avoid strangulation of credit in rural areas.

Clause 15. We recommend that the words 'with yearly rests may be added after the word 'annum'.

We suggest to Government that clauses 14 to 17 should be made applicable to all moneylenders as defined in the Bill and no exceptional treatment should be given to Banks as regards these clauses.

Clause 18. To indicate that the Courts have discretion to disallow a portion only of the [illegible] suitable cases, we recommend that the last three words in clause 18 (a) may be changed to 'may disallow the whole or any portion of the costs'

~~Clause 19.~~ In sub-clause (1) for the words 'or is otherwise' we recommend the substitution of the word 'and is'.

As we consider that a right of appeal should be given to a party aggrieved by an order of court under clause 19 (1), we recommend the addition of the following as sub-clause (5).

> (5) Re-hearings of and appeals from any order under under sub-section (1) may be had in the same manner and subject to the same conditions in and subject to which appeals may be had from any order of decision of the same court within its ordinary jurisdiction. In cases cognizable by a court of small causes appeals shall lie to the principal court of original jurisdiction in the division.

Clause 20. To make the punishment for contravening the provisions of this Act less drastic and to indicate that the cancellation or suspension of licence is to be done by the registering officer, the court having merely to pass an order to that effect, we recommend the substitution of the following clause for the existing one:-

> 20. Whoever makes default in complying with or acts in contravention of any of the provisions of this Act shall, if no specific penalty has been provided in this Act, be punishable,
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> (a) for the first offence with fine which may extend to rupee two hundred,
>
> (b) for the second office with fine which may extend to rupees five hundred, and
>
> (c) for any subsequent offence with imprisonment of either description for a term not exceeding one month or with fine which may extend to rupees five hundred or with both; and on such conviction the court may also order that his registration or licence shall be cancelled.

We consider that the Government should be given power to remove a disqualification imposed on a moneylender by a court under clauses 19 or 20 and we therefore recommend the addition of the following clause as clause 21, the existing clause 21 being renumbered as clause 24.

> 21. The Government may, at any time on application in the prescribed form accompanied by the prescribed fees, remove a disqualification imposed on a moneylender by a court under section 19 or Section 20, having regard to the time which has elapsed since the order and the circumstances under which it was made or to the time which has elapsed since the conviction and to the nature of the offence.

We also consider that prosecutions for an offence under this Act should not be belated and we therefore recommend the addition of the following clause as clause 22, the existing clause 22 being renumbered as clause 25.

> 22. No prosecution for an offence under this Act o any rule made thereunder shall be instituted except within one year next after the commission of such offence.

We consider that protection should be given to a debtor against molestation and we recommend the addition of the following clause as clause 23, the existing clause 23 bein renumbered as clause 26.

23.Whoever molests, ~~xxx~~ or abets the molestation of, a debtor for the recovery of a debt owed by him to the creditor shall be punishable with imprisonment of either description for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

EXPLANATION.

For the purpose of this section a person who with intent to cause another person to abstain from doing or to do any act which he has a right to do or do abstain from doing.

(a) obstructs or uses violence or intimidates such other persons, or

(b) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, or hinders him in, the use thereof, or

(c) loiters or does any similar act at or near a house or other place where such other person resides or works, or carries on business, or happens to be

shall be deemed to molest such other person;

Provided ~~xxxx~~ that a person who attends at or near such house or place in order merely to obtain or communicate information or to make a demand for a loan due shall not be deemed to ~~xx~~ molest.

(2) Notwithstanding anything contained in the Second Schedule to the Code of Criminal Procedure an offence under this section shall be cognizable offence as defined in the Code and the rest of the provisions of the Code shall have effect accordingly

Clause 24. Consequent on the addition of clause 21, we recommend that the word 'and' at the end of (v) of sub-clause (2) may be omitted and the following words and figures added after (vi):-

and (vii) the form of the application for removal of a disqualification under Section 21 and the fee therefor

Clause 26. Since the extension of the provisions of chapters III and IV would not be effective without the extension of the provisions of Chapter V which provide for penalties, we recommend the substitution of the fig---- and words "IV and V" for the workds and figures, "and IV" in this clause.

As some additions have been made to the Bill we recommend its republication.

Government of His Highness the Maharaja of Mysore.

General and Revenue Secretariat.

D.O.No.P. 5789-5801 Dated Bangalore the 3rd May 1939.

Dear Sir,

I am desired to send herewith a copy of the report of the Select Committee on the Money-lenders Bill and to request you to return the same with your approval at a very early date.

Yours sincerely,

Belur Srinivasiengar, Esq., B.A., B.L.,
Advocate and Member Mysore Legislative Council,
Gandhi Nagar, Bangalore City.

MONEYLENDERS BILL.

Select Committee Report.

We the memebers of the Select Committee to which the Mysore Moneylenders Bill was referred have considered the several clauses of the Bill, heard representatives of the important Moneylenders Associations and have now the honor to submit the following report:-

Clause 2(5) - We recommend that the word 'other' may be added between the words 'any' and 'business'

Chapter 2. After considerable discussion of the several clauses of this Chapter we are of opinion (Messrs. Rajasabhushana Diwan Bahadur K.R.Srinivasa Iyengar, Belur Srinivasa Iyengar and G. Girimaji Rao dissenting) that the existing provisions may be retained.

Clause 9. We recommend that great caution should be observed in applying the provisions of this clause to petty moneylenders in the villages.

Clause 12. To make the record of the transactions more comprehensive, we recommend that the sub-clause (1) may be recast as follows:-

> 12(1) Every pawn-broker shall regularly record and maintain an account in which in addition to the particulars contained in the form prescribed under Section 9, the following particulars are recorded, namely:-
>
> (a) a full and detailed description of the article or of each of the articles taken in pawn,
>
> (b) the time agreed upon for the redemption of the pawn,

(c)the name of the pawnor and where the pawnor is not the owner of the article or of any of the articles pawned, the name and address of the owner thereof.

We also recommend that sub-clause (2) may be recast as follows:-

12(2). A true copy of the entries in such account signed by the ~~pxxx~~ pawn-broker or his duly authorised agent shall be delivered by him to the pawnor at the time of the pawn on tender of the prescribed fee.

Clause 13. As we consider that inspection should be made only when the accounts are suspected to be improperly kept, we recommend that substitution of the following clause for the existing one:-

13(1). If an officer specially authorised in this behalf by the Government has reason to believe that the accounts required to be maintained under this Act by a moneylender are not properly maintained by him, such officer may call upon the moneylender to produce all his books of account for inspection and such moneylender shall be bound to produce all such books.

(2) If from such inspection it appears that such moneylender has committed any offence under this Act, such officer may cause proceedings to be instituted against him in the court ~~xfxxxx~~ having jurisdiction.

Clause 14. While the majority of us are of -- opinion that the existing provision may be retained, a few were of opinion that the maximum rates of interest should be increased in the case of small loans below a fixed amount in order to avoid strangulation of credit in rural areas.

Clause 15. We recommend that the marked words 'with yearly rests' may be added after the word 'annum'

We suggest to Government that clauses 14 to 17 should be made applicable to all moneylenders as defined in the Bill and no exceptional treatment should be given to Banks as regards these clauses.

Clause 18. To indicate that the Courts have discretion to disallow a portion only of the costs in suitable cases, we recommend that the last three words in Clause 18(a) may be changed to 'may disallow the whole or any portion of the costs'.

Clause 19. In sub-clause (1) for the words 'or is otherwise' we recommend the substitution of the word 'and is.'

As we consider that a right of appeal should be given to a party aggrieved by an order of court under clause 19(1), we recommend the addition of the following as sub-clause (5):-

> (5) Re-hearings of and appeals from any order under sub-section (1) may be had in the same manner and subject to the same conditions in and subject to which appeals may be had from any order or decision of the same court within its ordinary jurisdiction. In cases cognizable by a court of small causes appeals shall lie to the principal court of original jurisdiction in the division.

Clause 20. To make the punishment for contravening the provisions of this Act less drastic and to indicate that the cancellation or suspension of licenee is to be done by the registering officer,

the court having merely to pass an order to that effect, we recommend the substitution of the following clause for the existing one:-

> 20. Whoever makes default in complying with or acts in contravention of any of the provisions of this Act shall, if no specific penalty has been provided in this Act, be punishable,
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> (a) for the first offence with fine which may extend to rupees two hundred,
>
> (b) for the second offence with fine which may extend to rupees five hundred, and
>
> (c) for any subsequent offence with imprisonment of either description for a term not exceeding one month or with fine which may extend to rupees five hundred or with both;

and on such conviction the court may also order that his registration or licence shall be cancelled.

We consider that the Government should be given power to remove a disqualification imposed on a moneylender by a court under clauses 19 or 20 and we therefore recommend the addition of the following clause as clause 21, the existing clause 21 being re-numbered as clause 24.

> 21. The Government may, at any time on application in the prescribed form accompanied by the prescribed fee, remove a disqualification imposed on a moneylender by a court under section 19 or Section 20, having regard to the time which has elapsed since the order and the circumstances under which it was made or to the time which has elapsed since the conviction and to the nature of the offence.

We also consider that prosecutions for an offence under this Act should not be belated and we therefore recommend the addition of the following

clause as clause 22, the existing clause 22 being renumbered as clause 25.

> 22. No prosecution for an offence under this Act or any rule made thereunder shall be instituted except within one year next after the commission of such offence.

We consider that protection should be given to a debtor against molestation and we recommend the addition of the following clause as clause 23, the existing clause 23 being renumbered as clause 26.

> 23. Whoever molests, or abets the molestation of, a debtor for the recovery of a debt owed by him to the creditor shall be -- punishable with imprisonment of either description for a term which ~~xxxx~~ may extend to three months or with fine which may extend to five hundred rupees or with both.

EXPLANATION.

> For the purpose of this section a person who with intent to cause another person to abstain from doing or to do any act which he has a right to do or do abstain from doing,
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> (a) obstructs or uses violence or intimidates such other person, or
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> (b) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, or hinders him in, the use thereof, or
>
> (c) loiters or does any similar act at or near a house or other place where such other person resides or works, or carries on business, or happens to be,
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> shall be deemed to molest such other person;
>
> Provided that a person who attends at or near such house or place in order merely to obtain or communicate information or to make a demand for a loan due shall not be deemed to molest.

(2) Notwithstanding anything contained in the Second Schedule to the Code of Criminal Procedure an offence under this section shall be cognizable offence as defined in the Code and the rest of the provisions of the Code shall have effect accordingly.

Clause 24. Consequent on the addition of clause 21, we recommend that the word 'and' at the end of (v) of sub-clause (2) may be omitted and the following words and figures added after (vi):-

and (vii) the form of the application for removal of a disqualification under Section 21 and the fee therefor

Clause 26. Since the extension of the provisions of Chapters III and IV would not be effective without the extension of the provisions of Chapter V which- provide for penalties, we recommend the substitution of the figures and words "IV and V" for the words and figures,"and IV" in this clause.

As some additions have been made to the Bill we recommend its republication.

Dissenting note

I am of opinion (a) that Sections 7 & 8 are not necessary at all.

(b) that interest in respect of unsecured debts may be raised to a maximum of 24 per cent and 12 percent in respect of secured debt.

(c) that Sec 12 should not be applicable to cases where the Amount raised by pawning does not exceed Rupees Twenty Five

that Sec 13 is rigorous if not

cruelly under Sec 20 too severe.

Belur Srinivasa Murthy
13/5/39

[illegible]

Select Committee Report.

To the members of the Select Committee to which the above Moneylenders Bill was referred have considered the several clauses of the Bill, heard representatives of the important Moneylenders Associations and have now the honor to submit the following report:-

Clause 2 (5) - We recommend that the word 'other' may be placed between the words 'any' and 'business'.

Chapter 2. After considerable discussion of the several clauses of the Chapter we are of opinion (Messrs. Rajasabhushana Diwan Bahadur T.R. Venkatarama Iyengar, Mr. Venkatarama Iyengar and V. Viraraji) are dissenting that the existing provisions may be retained.

Clause 9. We recommend that great caution should be observed in applying the provisions of this clause to petty moneylenders in the villages.

Clause 12. To make the record of the transactions more comprehensive, we recommend that the sub-clause 1) may be recast as follows:-

> 12 (1) Every pawn-broker shall regularly record and maintain an account in which in addition to the particulars contained in the form prescribed under section 9, the following particulars are recorded, namely:-
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> (a) a full and detailed description of the article or of each of the articles taken in pawn;
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> (b) the time agreed upon for the redemption of the pawn;
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> (c) the name of the pawnor and where the pawnor is not the owner of the article or of any of the articles pawned, the name and address of the owner thereof.

We also recommend that sub-clause (2) may be recast as follows:-

12 (2). A true copy of the entries in such account signed by the pawn-broker or his duly authorised agent shall be delivered by him to the pawnor at the time of the pawn on tender of the prescribed fee.

Clause 13. As we consider that inspection should be made only when the accounts are suspected to be improperly kept, we recommend the substitution of the following clause for the existing one:-

> 13 (1). If an officer specially authorised in this behalf by the Government has reason to believe that the accounts required to be maintained under this Act by a moneylender are not properly maintained by him, such officer may call upon the moneylender to produce all his books of account for inspection and such moneylender shall be bound to produce all such books.
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> (2) If from such inspection it appears that such moneylender has committed any offence under this Act, such officer may cause proceedings to be instituted against him in the court having jurisdiction.

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Clause 15. We recommend that the words 'with yearly rests' may be added after the word 'annum'.

A suggestion by Government that clauses 14 to 17 should be made applicable to all moneylenders as defined in the Bill and no exceptional treatment should be given to banks as regards these clauses.

Clause 18. To insist that the Courts have discretion to disallow a portion only of the costs in certain cases, we recommend that the last two words in clause 18 (a) may be changed to 'may disallow the whole or any portion of the costs'

Clause 19. In sub-clause (1) for the words 'or in other-wise' we recommend the substitution of the word 'and'.

As we consider that a right of appeal should be given to a party aggrieved by an order of Court under clause 19 (1), we recommend the addition of the following as sub-clause (5):-

> (5) Re-hearings of and appeals from any order made under sub-section (1) may be had in the same manner and subject to the same conditions in and subject to which appeals may be had from any order or decision of the same Court within its ordinary jurisdiction. In cases cognizable by a Court of Small Causes appeals shall lie to the Principal Court of original jurisdiction in the division.

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> (c) for any subsequent offence with imprisonment of either description for a term not exceeding one month or with fine which may extend to rupees five hundred or with both; and on such conviction the court may also order that his registration or licence shall be cancelled.

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We consider that protection should be given to a debtor against molestation and we recommend the addition of the following clause as clause 23, the existing clause 23 being renumbered as clause 24.

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... or the purpose of this section a person who with intent to cause ... person to ... from ... or to ... any ... or ... or ... right ... or ... or ... or ...

(a) obstructs ... uses violence or intimidation ... other person, or

(b) persistently follows ... person from place to place or ... any property ... or ... of ... or ... or ... or ... in, ... or ... thereof, or

(c) ... or ... any ... or ... or ... or ... upon ... person ... or ... or ... or ... or ... to be

shall be ... such other person;

Provided ... that a person who ... or ... or ... or ... in ... or ... to ... or ... or ... to ... or ... shall not be ... to be molested.

... Notwithstanding ... in the ... Code ... original ... and ... shall not ... from ... of the ... Code ... (a) ... in the following ... after (vii):-

... (viii) in the case of ... or ... of ... or ... or ... for ...

... of the ... found ... for ... or ... and ... for the ... and ... in this ...

... some ... have been ... to the ... to ... the ... publication.

Approved
R. Cunningham
M.L.C.

RAJASABHABHUSHANA, DIWAN BAHADUR
R. SRINIVASIENGAR
RETIRED MEMBER OF COUNCIL

FIFTH ROAD, CHAMARAJAPET

Bangalore City 11th May 1939

Prof. G.V.
Mr. V's

OFFICE OF THE SECRETARY
11 MAY 1939
REPRESENTATIVE ASSEMBLY AND LEGISLATIVE COUNCIL.

Dear Sir,

I herewith return, with my remarks, the draft report of the Select Committee on the Moneylenders' Bill sent by you with your D.O. No. P.5789-5801 dated 3rd May 1939.

Yours sincerely,

R. Srinivasiengar

Enc: 1.

To

The Secretary,
General and Revenue Secretariat,
Old Public Offices, BANGALOR

MONEYLENDERS BILL.

Select Committee Report.

We the memebers of the Select Committee to which the Mysore Moneylenders Bill was referred have considered the several clauses of the Bill, heard representatives of the important Moneylenders Associations and have now the honor to submit the following report:-

Clause 2(5) - We recommend that the word 'other' may be added between the words 'any' and 'business'

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(2) If from such inspection it appears that such moneylender has committed any offence under this Act, such officer may cause proceedings to be instituted against him in the court ~~xfxkxx~~ having jurisdiction.

Clause 14. While the majority of us are of -- opinion that the existing provision may be retained, a few were of opinion that the maximum rates of interest should be increased in the case of small loans below a fixed amount in order to avoid strangulation of credit in rural areas.

Clause 15. We recommend that the ~~xxxxx~~ words 'with yearly rests' may be added after the word 'annum'.

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Clause 20. To make the punishment for contravening the provisions of this Act less drastic and to indicate that the cancellation or suspension of licence is to be done by the registering officer,

(2) Notwithstanding anything contained in the Second Schedule to the Code of Criminal Procedure an offence under this section shall be a cognizable offence as defined in the Code and the rest of the provisions of the Code shall have effect accordingly.

Clause 24. Consequent on the addition of clause 21, we recommend that the word 'and' at the end of (v) of sub-clause (2) may be omitted and the following words and figures added after (vi):-

and (vii) the form of the application for removal of a disqualification under Section 21 and the fee therefor

Clause 26. Since the extension of the provisions of Chapters III and IV would not be effective without the extension of the provisions of Chapter V which provide for penalties, we recommend the substitution of the figures and words "IV and V" for the words and figures "and IV" in this clause.

As some additions have been made to the Bill we recommend its republication.

The Secretary,

The Mysore Legislative Council,

B_A_N_G_A_L_O_R_E.

Dear Sir,

With reference to your D.O No.P.5789-5801, dated 3rd May'39, I beg to state that I approve the report of the Sele Committee on the Money Lenders Bill, subject to the following Note.

As regards Chapter II, I am against insisting on money lenders to take license & also get their names registered I think that registration alone will do. Licensing, in my opinion, is deregetory to the self respect of respectable money lenders. I would like to suggest that in case licensing is also insisted upon, the term must be for 3 years instead of one year as in the case of Registration.

Clause 13-(1) provides that the Registrar may inspect or caused to be inspected by any officer subordinate to him, the accounts of a money lender. It is desirable that the officer authorised should be under no circumstances be an offic below the rank of an Asst. Commissioner, because the secrecy o the accounts is to be very strictly maintained, otherwise the credit of the person will be affected.

The rates of interest prescribed in clause 14 of the Bill ~~as~~ in cases of big loans over & above one thousand, are little high, so the rates may be reduced to 6% & 9 % in cases of secured & unsecured loans respectively. But in case of l exceeding Rs100/- & not exceeding 1000/- the rates provided the Bill are quite fair & may be retained. But in case of small loans below 100/- the rate may be raised to 12 % in cases of secured loans & 18% in cases of unsecured loans. Where money lending is very risky those areas may be exempted from the operation of this clause, not to deprive the people of credit cilities.

Yours faithfully,

P. Subbarama Chetty

P.SUBBARAMA CHETTY.M.L.C
Chickpet,
BANGALORE CITY.
15th May'39.

D.O. No. P5995/Secl

13th May 1939.

Dear Sir,

May I request you to be so good as to set in type the Mysore Moneylenders Bill as amended by the Select Committee, a copy of which is enclosed herewith and to send 6 clean proofs to this office by Tuesday the 16th instant.

Yours sincerely,

13.5

B.Venkatasubba Rao, Esq., B.A., LL.B.,
Superintendent, Government Printing,
Bangalore.

G. R. S. VI.—s-III/14]

DRAFT.

SUBJECT.....

.....

.....

Section. Legis
File No. 4 — 39
Serial No. 1

Diary No. of letter replied to.....

GENERAL AND REVENUE SECRETARIAT,

( )

, *the*.....*191*

Date of issue.....12/7/39.....

Signed by.....Mr. C. ...

Proceedings of the Government of H. H. the Maharaja of Mysore.

Order No..P206.....

Ordered that the accompanying...Mysore Moneylenders Act.....

.....

which received the assent of His Highness the Maharaja, on the...third.....

day of.....July..... 1939,

be published as ~~Regulation~~ Act No...XIII.....

of 1939, in the *Mysore Gazette* for general information.

May this be—

(i) Printed?

(ii) Treated as a standing order?

(iii) Published in the "Gazette" English part?

(iv) Translated?

(v) Placed at the disposal of the Press?

(vi) Published in the "Gazette" Kannada part?

Secretary to Government.
Law department

To

The Compiler, *Mysore Gazette*, for publication in Part III of the Gazette, in English and Kannada and for supply of .....~~spare copies in English, and~~ .....~~spare copies in Kannada~~ to this office, and.....spare copies in English and.....spare copies in Kannada to the Curator, Government Central Book Depot, Bangalore. Proofs should be sent to this office for approval before publication.

Spare copies as per Standing order. 4

Copy to Translation Section.

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS

THE MAHARAJA OF MYSORE.

O R D E R No. Prob Legis 4. 39-1

Dated Bangalore the 10th July 1939.

Ordered that the accompanying Mysore Moneylenders Act which received the assent of His Highness the Maharaja, on the Third day of July 1939 be published as Act No.XIII of 1939, in the Mysore Gazette for general information.

Secretary to Government
Law Department.

To

The Compiler, Mysore Gazette, for publication in Part IV of the Gazette, in English and Kannada and for supply of spare copies as per Standing Orders. 4 clean proofs should be sent to this office for approval by 2 P.M. tomorrow.

Copy to Manchala Desai

cm-3

NOTIFICATION.

Order No. P. 206—*Legis.* 4-39-1, *dated Bangalore the* 12*th July* 1939.

Ordered that the accompanying Money Lenders' Act which received the assent of His Highness the Maharaja, on the third day of July 1939 be published as Act XIII of 1939, in the *Mysore Gazette* for general information.

C. SUBRAHMANYA AIYAR,
Secretary to Government,
Law Department.

ACT XIII OF 1939.

THE MONEY LENDERS' ACT

(*Received the assent of His Highness the Maharaja on the third day of July* 1939.)

Whereas it is expedient to regulate and control the transactions of money lending; It is hereby enacted as follows:—

CHAPTER I.

Preliminary.

Short Title.

1. (1) This Act may be called the Mysore Money Lenders' Act, 1939.

Application.

(2) The Government may, by notification in the official Gazette, apply all or any of the provisions of this Act to any local area or to any class of money lenders from such date as may be specified in the notification and may also by a like notification exclude from the operation of this Act any local area or exempt any money lender or class of money lenders or any class of loans from the operation of all or any of the provisions of this Act.

Definitions.

2. In this Act unless there is anything repugnant in the subject or context:—

(1) "court" includes a Court acting in the exercise of insolvency jurisdiction;

(2) "interest" includes any sum by whatsoever name called in excess of the principal paid or payable to a money lender in consideration of or otherwise in respect of a loan, but does not include any sum lawfully charged in accordance with the provisions of this Act or any other law for the time being in force by a money lender for or on account of costs, charges or expenses;

(3) "loan" means an advance whether of money or in kind on interest made by a money lender and includes any transaction which in the opinion of the court is in substance a loan;

(4) "money lender" means an individual or an undivided Hindu family or an unincorporated body of individuals or body corporate incorporated under any law in Mysore or outside Mysore, or a body which stands to

any such body corporate in the relation of a subsidiary body and includes assignees and the legal representative of the money lender, who or which—

(i) carries on the business of money lending in the State; or

(ii) has his or its principal place of such business in the State;

and includes a pawn-broker;

(5) "money lending business" or "business of money lending" means the business of advancing loans either solely or in common with any other business;

(6) "pawn-broker" means a person who carries on the business of taking goods and chattels in pawn for a loan;

(7) "pawner" means a person delivering an article for pawn to a pawn-broker;

(8) "prescribed" means prescribed by rules made under this Act;

(9) "principal" means in relation to a loan the amount actually lent to the debtor;

(10) "register" means a register of money lenders maintained under Section 4;

(11) "registrar" means the registrar of money lenders appointed under Section 3;

(12) "secured loan" means a loan for which the money lender holds a mortgage, charge or lien on the property of the debtor or any part thereof as a security for that loan; and

(13) "unsecured loan" means any loan other than a secured loan.

CHAPTER II.

Registration and Licensing of Money Lenders.

Appointment of Registrars.

3. The Government may appoint registrars of money lenders for the purpose of this Act and may define the local areas within which each registrar shall exercise his powers and perform his duties.

Register of money lenders.

4. The registrar shall maintain a register of money lenders in such form as may be prescribed.

Application for registration.

5. Every money lender shall apply in writing to the registrar for the area in which the principal place of business of such money lender is situated or in which he

intends to carry on the business of money lending, to be registered as a money lender. The application shall contain such particulars as may be prescribed. On receipt of such application the registrar shall register the name of the applicant in the register unless disqualified under Section 19. Any such person ceasing to carry on the business of money lending may, on application to the said authority, get his name struck off from the register.

Duration of registration.

6. A registration of a money lender shall be valid for three years from the date of registration but may be renewed from time to time. If renewed it shall have effect for three years from the date of the renewal.

Licence.

7. Every money lender whose name has been registered and to whom this section is made applicable shall annually take out a licence from the registrar on payment of the prescribed fee in such form and subject to such conditions as may be prescribed for carrying on the business of money lending.

Licence to be annual.

8. A licence granted under Section 7, shall, unless sooner cancelled, be in force for one year from the date on which it is granted.

CHAPTER III.

Regulation of Accounts.

Duty to keep accounts.

9. Every money lender shall in respect of every loan advanced by him after the commencement of this Act and every transaction made by him after the commencement of this Act relating to any loan advanced by him before the commencement of this Act, regularly record and maintain or cause to be recorded and maintained an account in such form, language, script and numerals as the Government may prescribe.

Receipt to be given.

10. Every money lender shall, at the time of payment, give to the debtor or his agent for the sum paid by him or on his behalf, a receipt duly signed and if necessary stamped.

Furnishing statement of account.

11. (1) Every money lender shall, on demand made in writing by the debtor at any time during the period when the loan or any part thereof has not been repaid, on payment of the prescribed fee, furnish to the debtor or if he so requires to any person mentioned by him in that behalf, a statement of account in the prescribed form and

showing the amount which remains outstanding on account of the principal and of interest:

Provided that where a money lender has complied with the demand the debtor shall not make a further demand for a statement of account in respect of the same loan within a period of six months from the date of such compliance.

(2) A person to whom a statement of account has been furnished under sub-section (1) shall not be bound to acknowledge or deny its correctness and his failure to object to the correctness of the account shall not by itself be deemed to be an admission of the correctness of such account.

12. (1) Every pawn-broker shall regularly record and maintain an account in which in addition to the particulars contained in the form prescribed under section 9, the following particulars are recorded, namely:—

(*a*) A full and detailed description of the article or of each of the articles taken in pawn.

(*b*) The time agreed upon for the redemption of the pawn.

(*c*) The name of the pawner and where the pawner is not the owner of the article or of any of the articles pawned, the name and address of the owner thereof.

(2) A true copy of the entries in such account, signed by the pawn-broker or his duly authorised agent shall be delivered by him to the pawner at the time of the pawn on tender of the prescribed fee.

13. (1) If an officer specially authorised in this behalf by the Government has reason to believe that the accounts required to be maintained under this Act by a money lender are not properly maintained by him, such officer may call upon the money lender to produce all his books of account for inspection and such money lender shall be bound to produce all such books.

(2) If from such inspection it appears that such money lender has committed any offence under this Act, such officer may cause proceedings to be instituted against him in the court having jurisdiction.

CHAPTER IV.

Provisions relating to suits in respect of loans.

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14. Notwithstanding anything contained in any law for the time being in force, no court shall in any suit brought in respect of a loan advanced after the commencement of this Act, pass a decree for interest at rates exceeding 9 per centum per annum in the case of a secured loan and 12 per centum per annum in the case of an unsecured loan.

Maximum rate of compound interest.

15. No money lender shall recover by suit interest of any kind at a rate exceeding 6 per centum per annum *with yearly rests* in respect of any loan made after the commencement of this Act under a contract which provides for the payment of compound interest.

What is excessive interest under Usurious Loans Act

16. Where the interest charged is in excess of the rates prescribed as maximum in sections 14 and 15, the court shall presume for the purpose of section 3 of the Usurious Loans Act that the interest charged is excessive and that the transaction was substantially unfair.

Arrears of interest not to exceed principal.

17. No court shall, in respect of a loan advanced before or after the commencement of this Act, decree on account of arrears of interest, a sum greater than the principal of the original loan.

Penalty for non-compliance with section 9 or section 12.

18. Notwithstanding anything contained in any enactment for the time being in force—

(*a*) if in any suit or proceeding relating to a loan the court finds that the provisions of section 9 or section 12 have not been complied with by the money lender it may, if the plaintiff's claim is established, in whole or in part, disallow the whole or any portion of the interest found due, as may seem reasonable to it in the circumstances of the case and *may disallow the whole or any portion of the costs*;

(*b*) if the money lender to whom a demand has been made under section 11 fails without reasonable excuse to comply therewith within one month after the demand has been made, the court shall disallow interest for the period of default.

CHAPTER V.

Penalties.

Court's power to suspend or cancel license.

19. (1) Where in any suit brought in respect of a loan by a money lender, the court is of opinion that the money lender has been guilty of fraud or of any contravention of the provisions of this Act or of any rule made thereunder [or is otherwise] *and is* unfit to carry on the business of money lending, the court may order that the licence held by such money lender or his registration be suspended for such time as the court may think fit or cancelled and may also declare such money lender disqualified from obtaining a licence or being registered under this Act either permanently or for such period as it thinks fit.

(2) The court shall cause the particulars of any order made under this section to be endorsed on the licence held by the money lender against whom such order is made and shall cause copy of its order to be sent to the registrar by whom the license was granted or the registration was made, for the purpose of entering such particulars in the Register.

(3) Every holder of a licence shall, on being called upon by the court to do so, produce the licence within such time as may be directed by the court.

(4) Any person whose licence or registration has been cancelled or suspended in accordance with the provisions of this section shall, during the period fo

which such order of cancellation has effect or during the period of suspension, as the case may be, be disqualified from being registered or obtaining a license.

(5) Re-hearings of and appeals from any order under sub-section (1) may be had in the same manner and subject to the same conditions in and subject to which appeals may be had from any order or decision of the same court within its ordinary jurisdiction. In cases cognizable by a court of small causes appeals shall lie to the principal court of original jurisdiction in the division.

Penalty for contravention of provisions.

20. Whoever makes default in complying with or acts in contravention of any of the provisions of this Act shall, if no specific penalty has been provided in this Act, be punishable.—

(*a*) for the first offence with fine which may extend to rupees two hundred,

(*b*) for the second offence with fine which may extend to rupees five hundred, and

(*c*) for any subsequent offence with imprisonment of either description for a term not exceeding one month or with fine which may extend to rupees five hundred or with both,

and on a conviction under sub-clause (*c*) the court may also order that his registration or licence shall be cancelled.

21. The Government may, at any time on application in the prescribed form accompanied by the prescribed fee, remove a disqualification imposed on a money lender by a court under Section 19 or Section 20, having regard to the time which has elapsed since the order and the circumstances under which it was made or to the time which has elapsed since the conviction and to the nature of the offence.

22. No prosecution for an offence under this Act or any rule made thereunder shall be instituted except within one year next after the commission of such offence.

23. Whoever molests, or abets the molestation of, a debtor for the recovery of a debt owed by him to his creditor shall be punishable with imprisonment of either description for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

Explanation.—For the purpose of this section, a person who with intent to cause another person to abstain from doing or to do any act which he has a right to do or to abstain from doing :—

(*a*) obstructs or uses violence or intimidates such other person, or

(*b*) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, or hinders him in, the use thereof, or

(*c*) loiters or does any similar act at or near a house or other place where such other person resides or works, or carries on business, or happens to be,

shall be deemed to molest such other person:

Provided that a person who attends at or near such house or place in order merely to obtain or communicate information or to make a demand for a loan due shall not be deemed to molest.

(2) Notwithstanding anything contained in the Second Schedule to the Code of Criminal Procedure, an offence under this section shall be a cognizable offence as defined in the Code.

CHAPTER VI.

Miscellaneous.

24. (1) The Government may make rules for carrying out the purposes of this Act. Power to make rules

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(i) the form of the register mentioned in section

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